

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**NOTICE OF EMERGENCY RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority under section 18(e) of Mayor-Commissioner Regulation No. 74-39, enacted December 13, 1974, as amended by the Vendors Regulation Amendments Act of 1978, effective June 30, 1978 (D.C. Law 2-82; 24 DCR 9293), Reorganization Plan 1 of 1986, effective August 21, 1986, the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; 56 DCR 6619) and Mayor's Order 2009-106, dated June 16, 2009, hereby gives notice of the adoption of the following emergency rulemaking. This emergency rulemaking will amend Title 24, Chapter 5 of the District of Columbia Municipal Regulations.

This emergency rulemaking is necessitated by the immediate need to designate vending locations within the Nationals Park Vending Zone before the start of Major League Baseball's 2010 season. The emergency rulemaking maintains the vending locations established by the Expanding Opportunities for Street Vending Around the Baseball Stadium Clarifying Temporary Amendment Act of 2008, effective October 21, 2008 (D.C. Law 17-241; 55 DCR 11704).

This emergency rulemaking was adopted on March 19, 2010, to become effective immediately. This emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of effectiveness.

Chapter 5 of Title 24 of the District of Columbia Municipal Regulations is amended as follows:

Section 505.12 is amended to read as follows:

505.12 The Mayor shall post on the website of the Department of Consumer and Regulatory Affairs notice of any legislative, regulatory, or policy changes affecting vending in the District.

New section 530 is added to read as follows:**530 NATIONALS PARK VENDING ZONE**

- 530.1 The streets listed in this subsection shall constitute the Nationals Park Vending Zone. Sidewalk vending locations shall be allowed on the following streets and in the following numbers:
- (a) East side of First Street, SE between N Street, SE and N Place, SE: two (2) Vending Locations;
 - (b) East side of First Street, SE between N Place, SE and O Street, SE: two (2) Vending Locations;
 - (c) West side of Half Street, SE between M Street, SE and N Street, SE: seven (7) Vending Locations; and

- (d) North side of N Street, SE between Half Street, SE and Van Street, SE:
three (3) Vending Locations.

- 530.2 The Department of Consumer and Regulatory Affairs shall conduct a monthly lottery to assign the fourteen (14) vending locations within the Nationals Park Vending Zone.
- 530.3 The monthly fee for a monthly vending site permit in the Nationals Park Vending Zone shall be one hundred and twenty-three dollars (\$123) per lottery.
- 530.4 Applicants may apply electronically, via designated computer kiosks, for each monthly lottery by visiting the DCRA Business Licensing Center which shall maintain information regarding the application process and qualifications.
- 530.5 Winners of each monthly lottery shall be notified by phone, first-class mail, electronic mail, or by being listed on the DCRA website (dcra.dc.gov).
- 530.6 Legally licensed vendors at the Robert F. Kennedy Memorial Stadium shall receive a preference in the assignment of vending locations in the Nationals Park Vending Zone in the form of an additional entry in each lottery.

DEPARTMENT OF HEALTH CARE FINANCE**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02) and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6)) hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 48 of Title 29 of the District of Columbia Municipal Regulations (DCMR) entitled "Medicaid Reimbursement for Inpatient Hospital Services". The effect of these rules is to change the current prospective payment reimbursement methodology for inpatient hospital services for hospitals participating in the Medicaid Program.

The District is updating the payment method for hospital stays based on more current data. The payment rates were developed using four (4) peer groups. The four (4) peer groups are children's hospitals, community hospitals, major teaching hospitals, and long-term hospitals. Eleven (11) hospitals located in the District of Columbia will now be paid by All Patient-Diagnosis Related Group (APDRG), including three (3) hospitals previously reimbursed on a per diem basis. The method for paying for transfer cases has been changed, consistent with standard practice for Medicaid and Medicare payors. Low-cost inpatient claims will now be paid a partial APDRG payment. Additional changes have been made to the payment methodology for out-of-state hospitals. Out-of-state hospitals, other than Maryland, will be paid by APDRG.

DHCF is updating its methods and standards, bringing the inpatient payment method to a more current level. The APDRG software currently in use is fifteen (15) years old and does not accommodate current standards of medical coding or claims processing. The updated software will be the 2009 version. Payment rates will be updated to reflect a more current cost of inpatient care. DHCF projects there will be no increase or decrease in aggregate expenditures as a result of the change in payment methodology.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Medicaid beneficiaries who are in need of hospital services, particularly in areas of the District with lower hospital access. By taking emergency action, this proposed rule will ensure appropriate and needed payments to DRG hospitals and allow Medicaid beneficiaries access to needed medical services.

The corresponding amendment to the District of Columbia State Plan for Medical Assistance ("State Plan") was approved by the Council of the District of Columbia through the Fiscal Year 2010 Budget Support Act of 2009, effective March 3, 2010 (D.C. Law 18-111; 57 DCR 181). These rules shall become effective for inpatient hospital discharges occurring on: (1) April 1, 2010, if the corresponding State Plan amendment has been approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) with an effective date of April 1, 2010 or the effective date established by CMS in its approval of the corresponding State Plan amendment. If approved, DHCF will publish a notice which sets forth the effective date of the rules.

The emergency rulemaking was adopted on March 12, 2010 and shall become effective for inpatient hospital discharges occurring on or after April 1, 2010. The emergency rules will remain in effect for one hundred and twenty days (120) or until July 9, 2010, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director also gives notice of the intent to take final rulemaking action to adopt these rules not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 48 of Title 29 of the District of Columbia Municipal Regulations DCMR is amended to read as follows:

**CHAPTER 48 MEDICAID REIMBURSEMENT
FOR INPATIENT HOSPITAL SERVICES**

- 4800.1 Effective for inpatient hospital discharges occurring on or after April 1, 2010, Medicaid reimbursement for inpatient hospital services shall be on an All Patient-Diagnosis Related Group (APDRG) prospective payment system discharge basis for:
- (a) The following hospitals: Children's Hospital National Medical Center, George Washington University Hospital, Georgetown University Hospital, Howard University Hospital, Providence Hospital, Sibley Memorial Hospital, United Medical Center, Washington Hospital Center, Washington Specialty-Hadley Memorial Hospital, Washington Specialty-Capitol Hill (MedLink) Hospital, National Rehabilitation Hospital; and
- (b) Out-of-state hospitals other than hospitals located in Maryland as set forth in section 4800.6.
- 4800.2 Medicaid reimbursement to hospitals not listed in section 4800.1 for inpatient services shall be made in accordance with the requirements set forth in section 4810.
- 4800.3 Hospital inpatient services subject to the APDRG prospective payment system shall include inpatient hospital stays that last only one (1) day and services provided in Medicare-designated distinct-part psychiatric units and distinct-part rehabilitation units within those hospitals included in section 4800.1.
- 4800.4 Payment for each APDRG claim, excluding transfer claims as described in section 4809, shall be based on the following formula:

$$\begin{array}{c} \text{APDRG Service Intensity Weight for each claim} \\ \times \\ \text{Final Base Payment Rate} \end{array}$$

+
Add-on Payments for Capital and Graduate Medical
Education Costs
+
Outlier Payment

- 4800.5 The Department of Health Care Finance (DHCF) has adopted the APDRG classification system as contained in the 2009 APDRGs Definition Manual, Version 26 for purposes of calculating the rates set forth in this Chapter. Subsequent versions may be adopted after publication, if DHCF determines a substantial change has occurred.
- 4800.6 Effective for inpatient hospital discharges occurring on or after April 1, 2010, Medicaid reimbursement to out-of-state hospitals other than hospitals located in Maryland shall be the weighted average base rate of all hospitals in the Community Hospital and Major Teaching Hospital peer groups. Hospitals located in Maryland shall be reimbursed a percentage of charges.

4801 CALCULATION OF BASE PAYMENT RATES

- 4801.1 For purposes of establishing the base payment rates, the participating hospitals listed in section 4800.1 shall be separated into four (4) peer groups as follows:
- (a) Children's Hospitals: Children's National Medical Center;
 - (b) Community Hospitals: Providence Hospital, Sibley Hospital, United Medical Center;
 - (c) Major Teaching Hospitals: Georgetown University Hospital, George Washington University Hospital, Howard University Hospital, Washington Hospital Center; and
 - (d) Long-Term Care Hospitals: National Rehabilitation Hospital, Washington Specialty-Capitol Hill Hospital, Washington Specialty-Hadley Memorial Hospital.
- 4801.2 The base year period shall be the District's fiscal year ending on September 30, 2007.
- 4801.3 The base year payment rate for each hospital shall be based on costs from each hospital's submitted cost report as follows:
- (a) Except for Washington Specialty-Hadley Memorial Hospital, each hospital's fiscal year 2006 cost report; and

- (b) For Washington Specialty-Hospital Memorial Hospital, the hospital's fiscal year 2005 cost report.

- 4801.4 The base year payment rate shall also be developed using facility case mix data, claims data, and discharge data from all participating hospitals for the District's fiscal year ending September 30, 2007.
- 4801.5 The costs set forth in section 4801.3 shall be updated to 2007 by applying the 2006 cost-to-charge ratio to claims data for 2007.
- 4801.6 The final base year payment rate for each hospital shall be equal to the peer group average cost per discharge calculated pursuant to section 4803, plus the hospital specific cost per discharge of indirect medical education calculated pursuant to section 4804, subject to a gain/loss corridor as set forth in section 4801.7 and adjusted for inflation pursuant to section 4801.8.
- 4801.7 Each hospital's base year payment rate shall not exceed a rate that approximates an overall payment to cost ratio between ninety-five percent (95%) and one hundred percent (100%) for the base year, unless the hospital is in a public-private partnership with the District then the payment to a hospital in a public-private partnership's base year payment shall be set at a rate that approximates an overall payment to cost ratio of one hundred percent (100%) for the base year. The payment to cost ratio is determined by modeling payments to each facility using claims data from the base year data set.
- 4801.8 Each hospital's base year payment shall be adjusted from 2007 to June 30, 2010, using an inflation factor obtained from the Centers for Medicare and Medicaid Services (CMS) Hospital Market Basket Index.

4802 CALCULATION OF THE HOSPITAL SPECIFIC COST PER DISCHARGE

- 4802.1 The hospital-specific cost per discharge shall be equal to each hospital's Medicaid inpatient operating costs standardized for indirect medical education costs and variations in case mix, divided by the number of Medicaid discharges in the base year data set and adjusted for outlier reserve.
- 4802.2 Medicaid inpatient operating costs for the base year period shall be calculated in accordance with 42 CFR 413.53 (Determination of cost of services to beneficiaries) and 42 CFR 412.1 through 412.125 (Prospective payment systems for inpatient hospital services), as reported on cost reporting Form HCFA 2552-92, Worksheet D-1, Part II, Line 53 (Computation of inpatient operating cost).
- 4802.3 Cost classifications and allocation methods shall be made in accordance with the Department of Health and Human Services, Health Care Finance Administration

Guidelines for Form HCFA 2552-92 and the Medicare Provider Reimbursement Manual 15.

- 4802.4 Medicaid inpatient operating costs calculated pursuant to section 4802.2 shall be standardized for indirect medical education costs by removing indirect medical education costs. Indirect medical education costs shall be removed by dividing Medicaid operating costs by the indirect medical education factor set forth in section 4802.5.
- 4802.5 The indirect medical education adjustment factor for each hospital shall equal $1 + 1.72 * (e \text{ raised to the power of } (\ln(1 + IR/B)) * .405) \text{ minus } 1$ where e is the natural anti log of 1.0 and \ln is the natural log of 1 plus the intern and resident-to-bed ratio. IR represents the number of interns and residents in approved graduate medical education programs and B represents the number of licensed hospital beds as reported in cost reporting Form HCFA 2552-92, Worksheet S-3, Part 1, Line 12, Column 1.
- 4802.6 Medicaid inpatient operating costs calculated pursuant to 4802.2 shall be standardized for variations in case mix by dividing Medicaid operating costs standardized for indirect medical education pursuant to 4802.4 by the appropriate case mix adjustment factor set forth in 4802.7.
- 4802.7 The case mix adjustment factor for each hospital shall be equal to the sum of the relative weights of each discharge in the base year, divided by the number of discharges in the base year. The case mix adjustment factor calculated pursuant to this section shall be adjusted by 2.5%, which accounts for an expected change in case mix related to improved coding of claims.
- 4802.8 The hospital specific cost per discharge adjusted for indirect medical education and case mix shall be reduced by a net one percent (1%), which takes into account five percent (5%) of the cost reserved for payment of high cost claims and four percent (4%) of the cost restored to account for the reduction in payment for low cost claims.
- 4802.9 If after an audit of the hospital's cost report for the base year an adjustment is made to the hospital's reported costs which results in an increase or decrease of five percent (5%) or greater of the hospital specific cost per discharge, the hospital specific cost per discharge shall be adjusted
- 4803 CALCULATION OF THE PEER GROUP AVERAGE COST PER DISCHARGE**
- 4803.1 The peer group average cost per discharge shall be equal to the weighted average of the hospital specific cost per discharge calculated pursuant to section 4802 for each hospital in the peer group.

**4804 CALCULATION OF THE HOSPITAL SPECIFIC COST PER
DISCHARGE OF INDIRECT MEDICAL EDUCATION**

4804.1 The hospital specific cost per discharge of indirect medical education shall be calculated as follows:

- (a) The cost per discharge adjusted for case mix shall be divided by the indirect medical education factor set forth in section 4802.5.
- (b) The amount established pursuant to section 4804.1(a) shall be subtracted from the average cost per discharge adjusted for case mix.

4805 INFLATION ADJUSTMENTS AND REBASING

4805.1 Inflation factors shall be periodically applied to each facility's base rate to arrive at an updated rate for payment purposes in periods subsequent to the base period.

4805.2 After two years of operations of the APDRG prospective payment system, DHCF shall evaluate the need for rebasing and adjustment of the APDRG service intensity weights.

4805.3 All inflation adjustments shall be based on the CMS Hospital Market Basket Index.

4806 CALCULATION OF APDRG SERVICE INTENSITY WEIGHTS

4806.1 The service intensity weights shall be based upon the discharge data base supplied by 3M with the version 26 APDRG grouper and centered for participating District of Columbia hospitals.

4806.2 The average charge per discharge shall be determined by identifying the average charge for cases within each discharge category, excluding outliers.

4806.3 The service intensity weight for each claim shall be equal to the ratio of the average charge per discharge for each APDRG to the aggregate average charge per discharge.

4806.4 The amount calculated in section 4806.3 shall be adjusted by a common factor to achieve a District wide case mix of 1.00 for the base year.

4806.6 The service intensity weights shall be modified periodically as the 3M APDRG weights are updated and new grouper versions are adopted.

4807 CALCULATION OF ADD-ON PAYMENTS

- 4807.1 The final base payment rate calculated pursuant to section 4801 shall be supplemented by additional payments for capital costs and graduate medical education, as appropriate.
- 4807.2 The capital cost add-on payment shall be calculated by dividing Medicaid capital costs applicable to hospital inpatient routine services costs, as reported on cost report Form HCFA 2552-92, Worksheet D, Part I, Line 101, Columns 4 and 6 and capital costs applicable to hospital inpatient ancillary services, as determined pursuant to section 4807.3, by the number of Medicaid discharges in the base year.
- 4807.3 Capital costs applicable to hospital inpatient ancillary services, as reported on Worksheet D, Part II, Column 2 shall be allocated to inpatient capital by applying the facility ratio of ancillary inpatient charges to total ancillary charges for each ancillary line on the cost report.
- 4807.4 Graduate medical education add-on shall be calculated by dividing the Medicaid graduate medical education costs by the number of Medicaid discharges in the base year.
- 4807.5 If after an audit of the hospital's cost report for the base year period an adjustment is made to the hospital's reported costs which results in an increase or decrease of five percent (5%) or greater of the capital cost or graduate medical education add-on payment, the add-on payment for capital or graduate medical education add-on costs shall be adjusted.

4808 **CALCULATION OF OUTLIER PAYMENTS**

- 4808.1 The APDRG prospective payment system shall provide for an additional payment for outliers based on inpatient costs. High cost outliers are cases with costs exceeding 2.5 times the standard deviation from the mean for each APDRG classification. When the cost of a case exceeds the high cost outlier threshold, the payment for the case shall be the sum of the base payment as described in section 4800.4 and the outlier payment calculated pursuant to section 4808.2.
- 4808.2 Each claim with a cost that exceeds the high cost outlier threshold shall be subject to an outlier payment. The amount of the outlier payment shall be calculated pursuant to the following formula:
- Outlier threshold minus (allowed charges X hospital cost to charge ratio) X 0.80.
- 4808.3 The cost to charge ratio is hospital specific and shall be developed based upon information obtained from each hospital's FY 2006 cost report as desk audited by the Department of Health Care Finance.
- 4808.4 The APDRG prospective payment system shall provide for an adjustment to

payments for extremely low cost inpatient cases. Low cost outliers are cases with costs less than 25% of the average cost of a case. Each claim with a cost that is less than the low cost outlier threshold shall be subject to a partial DRG payment. The amount of the payment shall be the lesser of the APDRG amount and a prorated payment, based on the ratio of covered days to the average length of stay associated with the APDRG category.

4808.5 The prorated payment shall be calculated as follows:

- (a) The base APDRG payment (Base payment times the APDRG service intensity weight) shall be divided by the average length of stay.
- (b) The amount established in section 4808.5(a) shall be multiplied by the sum of the number of covered days plus one (1) day.

4808.6 For those APDRG categories where there was insufficient data to calculate a reliable mean or standard deviation the outlier threshold shall be calculated using an alternate method as set forth below:

- (a) The outlier threshold shall be equal to the product of the weight of the APDRG and the average outlier multiplier.
- (b) The average outlier multiplier shall be determined by dividing the outlier threshold by the APDRG weight for all categories where the outlier threshold is calculated as 2.5 standard deviations above the mean.

4809 TRANSFER CASES AND ABBREVIATED STAYS

4809.1 For each claim involving a transfer, the Department of Health Care Finance shall pay the transferring hospital the lesser of the APDRG amount or prorated payment based on the ratio of covered days to the average length of stay associated with the APDRG category. The prorated payment shall be calculated pursuant to the formula set forth in section 4808.5.

4809.2 The hospital from which the patient is ultimately discharged shall receive a payment equal to the total APDRG payment.

4809.3 All transfers, except for documented emergency cases shall be prior authorized and approved by the Department of Health Care Finance as a condition of payment.

4809.4 Same day discharges shall not be paid as inpatient hospital stays unless the patient's discharge status is death.

4810 PAYMENT TO OTHER HOSPITALS FOR INPATIENT HOSPITAL SERVICES

- 4810.1 The Hospital for Sick Children, the Psychiatric Institute of Washington, and St. Elizabeths Hospital shall be reimbursed on a per diem basis and shall not be paid more than for inpatient and in-and-out surgery services to Medicaid patients in any hospital fiscal year than the sum of its charges.

4811 COST REPORTING AND RECORD MAINTENANCE

- 4811.1 Each hospital shall submit an annual cost report to the Medicaid Program within one hundred fifty (150) days after the close of the hospital's cost reporting period. Each cost report shall cover a twelve (12) month cost reporting period, which shall be the same as the hospital's fiscal year, unless the Medicaid Program has approved an exception.
- 4811.2 Each hospital shall complete its cost report in accordance with Medicaid Program instructions and forms and shall include any supporting documentation required by the Medicaid Program. The Medicaid Program shall review the cost report for completeness, accuracy, compliance and reasonableness through a desk audit.
- 4811.3 The submission of an incomplete cost report shall be treated as a failure to file a cost report as required by section 4811.1, and the hospital shall be so notified.
- 4811.4 The Medicaid Program shall issue a delinquency notice to the hospital if the hospital does not submit its cost report on time or when the hospital is notified pursuant to section 4811.3, that its submitted cost report is incomplete.
- 4811.5 If the hospital does not submit a complete cost report within thirty (30) days after the date of the notice of delinquency, twenty percent (20%) of the hospital's regular monthly payment shall be withheld each month until the cost report is received. If a complete cost report is not filed within ninety (90) days of the notice of delinquency, one hundred percent (100%) of the hospital's regular monthly payment shall be withheld each month until a complete report is filed.
- 4811.6 The Medicaid Program shall pay the withheld funds promptly after receipt of the completed cost report and documentation that meets the requirements of this section.
- 4811.7 Each hospital shall maintain sufficient financial records and statistical data for proper determination of allowable costs.
- 4811.8 Each hospital's accounting and related records, including the general ledger and books of original entry, and all transaction documents and statistical data, are permanent records and shall be retained for a period of not less than five (5) years

after the filing of a cost report or until the Notice of Final Program Reimbursement is received, whichever is later.

- 4811.9 If the records relate to a cost reporting period under audit or appeal, records shall be retained until the audit or appeal is completed.
- 4811.10 Payments made to related organizations and the reason for each payment to related organizations shall be disclosed by the hospital.
- 4811.11 Each hospital shall :
- (a) Use the accrual method of accounting; and
 - (b) Prepare the cost report according to generally accepted accounting principles and all Medicaid Program instructions.

4812 AUDITING AND ACCESS TO RECORDS

- 4812.1 On-site audits shall be conducted not less than once every three (3) years.
- 4812.2 During an on-site audit or review, each hospital shall allow appropriate Department of Health Care Finance auditors and authorized agents of the District of Columbia government and the United States Department of Health and Human Services access to financial records and statistical data necessary to verify costs reported to the Medicaid Program.

4813 APPEALS FOR HOSPITALS THAT ARE NOT COMPENSATED ON AN APDRG BASIS

- 4813.1 A hospital that is not compensated on an APDRG basis shall receive a Notice of Program Reimbursement (NPR) at the end of its fiscal year after a site audit.
- 4813.2 Within sixty (60) days after the date of the NPR, any hospital that disagrees with the NPR shall submit a written request for an administrative review of the NPR to the Agency Fiscal Officer, Audit and Finance, DHCF.
- 4813.3 The written request for administrative review shall include a specific description of the audit adjustment or estimated budget item to be reviewed, the reason for the request for review of the adjustment or item, the relief requested, and documentation in support of the relief requested.
- 4813.4 The Medicaid Program shall mail a written determination relative to the administrative review to the hospital no later than one hundred and twenty (120) days after the date of receipt of the hospital's written request for administrative review.

4813.5 Within forty-five (45) days after receipt of the Medicaid Program's written determination, the hospital may appeal the written determination by filing a written notice of appeal with the Office of Administrative Hearings.

4813.6 Filing an appeal with the Office of Administrative Hearings shall not stay any action to recover any overpayment to the hospital. The hospital shall be liable immediately to the Medicaid Program for any overpayment set forth in the Medicaid Program's determination.

4814 APPEALS FOR HOSPITALS THAT ARE COMPENSATED ON AN APDRG BASIS

4814.1 Hospitals that are compensated on an APDRG discharge basis shall receive a Remittance Advice each payment cycle.

4814.2 Within sixty (60) days after the date of the Remittance Advice, any hospital that disagrees with the payment rate calculation for the amounts listed in subsection 4814.3 or the APDRG assignment shall submit a written request for administrative review to the Agency Fiscal Officer, Audit and Finance, DHCF.

4814.3 The amounts subject to an administrative review are as follows:

- (a) Add- on payment for capital costs or graduate medical education costs; and
- (b) Outlier payment.

4814.4 The Medicaid Program shall mail a written determination relative to the administrative review to the hospital no later than one hundred and twenty (120) days after the date of receipt of the hospital's written request for administrative review under section 4814.2.

4814.5 Within forty-five (45) days after receipt of the Medicaid Program's written determination, the hospital may appeal the written determination by filing a written notice of appeal with the Office of Administrative Hearings.

4814.6 Filing an appeal with the Office of Administrative Hearings shall not stay an action to recover an overpayment to the hospital.

4815 APPEAL OF ADJUSTMENTS TO THE SPECIFIC HOSPITAL COST PER DISCHARGE OR ADD-ON PAYMENTS

4815.1 After completion of an audit of the hospital's cost report for the base year, DHCF shall provide the hospital a written notice of its determination of any adjustment to the Hospital's Specific Cost Per Discharge, graduate medical education add-on

payment or capital add-on payment for the base year. The notice shall include the following:

- (a) A description of the rate adjustment, including the amount of the old payment rate and the revised payment rate;
- (b) The effective date of the change in the payment rate;
- (c) A summary of all audit adjustments made to reported costs, including an explanation, by appropriate reference to law, rules or program manual of the reason in support of the adjustment; and
- (d) A statement informing the hospital of the right to request an administrative review within sixty (60) days after the date of the determination.

4815.2 A hospital that disagrees with an audit adjustment or payment rate calculation for the Hospital Specific cost per discharge, capital add-on, or graduate medical education add-on costs shall submit a written request for administrative review to the Agency Fiscal Officer, Audit and Finance Office, DHCF.

4815.3 The written request for the administrative review shall include a specific description of the audit adjustment or payment rate calculation to be reviewed, the reason for review of each item, the relief requested and documentation to support the relief requested.

4815.4 DHCF shall mail a formal response of its determination to the hospital not later than one hundred and twenty (120) days after the date of the hospital's written request for administrative review.

4815.5 Within forty-five (45) days after receipt of the DHCF's written determination, the hospital may appeal the written determination by filing a written notice of appeal with the Office of Administrative Hearings.

4815.6 Filing an appeal with the Office of Administrative Hearings shall not stay any action to adjust the hospital's payment rate.

4899 DEFINITIONS

For purposes of this chapter, the following terms shall have the meanings ascribed:

Base year – The standardized year on which rates for all hospitals for inpatient hospital services are calculated to derive a prospective reimbursement rate.

Department of Health Care Finance - the executive department of the District government responsible for administering the Medicaid program within the District of Columbia effective October 1, 2008.

Diagnosis Related Group (DRG) - a patient classification system that reflects clinically cohesive groupings of inpatient hospitalizations utilizing similar hospital resources.

High-cost outliers- claims with costs exceeding 2.5 standard deviations from the mean Medicaid cost for each APDRG classification.

Low-cost outliers- claims with costs less than twenty-five percent (25%) of the average cost for each APDRG classification.

Service intensity weights - A numerical value which reflects the relative resource requirements for the DRG to which it is assigned.

Persons desiring to comment on these proposed rules should submit comments in writing within thirty (30) days after publication of this notice in the *D.C. Register* to Dr. Julie Hudman, Director, the Department of Health Care Finance, 825 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. Copies of these proposed rules and related information may be obtained between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding holidays, at the address stated above.

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Human Services (“DHS” or “Department”), pursuant to the authority set forth in section 31 of the Homeless Services Reform Act of 2005 (“HSRA” or “Act”), effective October 22, 2005, D.C. Law 16-35, D.C. Official Code § 4-756.02 (2006 Supp.), and Mayor’s Order 2006-20, dated February 13, 2006, hereby gives notice of its intent to adopt the following new Chapter 25 of Title 29 of the District of Columbia Municipal Regulations, entitled “Shelter and Supportive Housing For Individuals and Families” (“Program”) as emergency rulemaking to become effective immediately, and proposed rulemaking to become effective in not less than forty-five (45) days from the date of publication of this notice in the *D.C. Register*. The Department also gives notice of its intent to take final rulemaking action to adopt these regulations within fifteen (15) days of approval by the District of Columbia Council (“Council”) or the expiration of the Council review period, whichever occurs first.

The purpose of the new chapter is to establish rules to administer the District of Columbia’s Shelter and Supportive Housing Program for individuals and families. The District initially published proposed rules for the Program on Friday, September 28, 2007. In addition, the District published the proposed rules for the Program to implement the new Permanent Supportive Housing initiative on Friday, August 15, 2008. Public comments were received during the comment periods and the Department has revised the original proposed rulemakings to reflect the comments received on each. Because the revisions represent substantial alterations, the Department is republishing the combined comprehensive Program rules, as an emergency and proposed rulemaking, in accordance with section 303(f) of the District of Columbia Administrative Procedure Act, as added by section 4 of the District of Columbia Documents Act, effective March 6, 1979, D.C. Law 2-153, D.C. Official Code § 2-553(f) (2006 Supp.). In addition, these rules were submitted to the Council and are awaiting Council approval, or expiration of the Council review period, as required by section 31 of the HSRA.

Emergency rulemaking action, pursuant to section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)), is necessary for the immediate preservation of the health, safety and welfare of District residents who are homeless. It is essential that the Department continue to operate the Program in order to shelter our most vulnerable individuals and families. The emergency rulemaking is adopted and becomes effective upon publication in the *D.C. Register*. The emergency rulemaking shall expire within 120 days from its effective date or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

Chapter 25 of Title 29 DCMR, Public Welfare, is deleted and replaced with the following:

CHAPTER 25. SHELTER AND SUPPORTIVE HOUSING FOR INDIVIDUALS AND FAMILIES

2500 SCOPE

2500.1 The provisions of this chapter shall apply to:

- (a) Shelter and supportive housing programs offered by the District of Columbia or by a Provider receiving funding for the program from either the District of Columbia or the federal government, if such funds are administered, whether by grant, contract, or other means, by the Department of Human Services or its designee; and
- (b) Clients of programs covered under paragraph (a) of this subsection.

2500.2 In multi-program agencies, the provisions of this chapter shall only apply to those programs that meet the criteria in paragraph (a) of this subsection and clients of those programs.

2500.3 Nothing in these rules shall be construed to create an entitlement (either direct or implied) on the part of any individual or family to any services within the Continuum of Care, other than shelter in severe weather conditions as authorized by sections 7(c) and 9(5) of the Homeless Services Reform Act of 2005 (Act), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code §§ 4-753.01(c) and 4-754.11(5)).

2501 GENERAL ELIGIBILITY CRITERIA FOR SHELTER AND SUPPORTIVE HOUSING

2501.1 An applicant, whether an individual or family, shall be eligible to receive shelter and supportive housing services if the applicant:

- (a) Is homeless or at imminent risk of becoming homeless because the applicant:
 - (1) Lacks a fixed, regular residence that provides safe housing, and lacks the financial means to acquire such a residence immediately;
 - (2) Has a primary nighttime residence that is:
 - (A) A supervised publicly or privately operated shelter or transitional housing facility designed to provide temporary living accommodations; or

- (B) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or
 - (3) Is likely, because of the applicant's circumstances, to become homeless in the absence of prompt government intervention;
 - (b) Is a resident of the District of Columbia as defined by section 503 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.03);
 - (c) Meets any special eligibility requirements established by the Provider, as long as such eligibility requirements are approved by the Department as part of the Provider's program rules pursuant to section 2515.17 and D.C. Official Code § 4-754.32(b). Such special eligibility requirements must be for the purpose of limiting entry into the program to those exhibiting the specific challenges that the program is designed to address; and
 - (d) Meets any additional eligibility requirements established by any federal funding source, if the program's receipt of such funds requires compliance with such eligibility requirements.
- 2501.2 No applicant may be deemed ineligible for services solely because the applicant cannot establish proof of homelessness or residency at the time of their application for assistance.
- 2502 INTAKE FOR SEVERE WEATHER SHELTER FOR INDIVIDUAL ADULTS**
- 2502.1 Intake for severe weather shelter for individual adults shall consist of an eligibility determination and placement in shelter.
- 2502.2 An individual adult applicant shall apply directly to and be determined eligible for severe weather shelter by the Provider from whom the individual is seeking services.
- 2502.3 Placement of eligible applicants in a specific severe weather shelter shall be on a first come, first served basis. If there is no available space in the shelter for an eligible applicant, the shelter shall arrange transportation for that person to another appropriate shelter that has available space.
- 2502.4 A Provider of severe weather shelter may fill a bed or unit allocated to an individual who leaves the facility for more than thirty (30) minutes after lights out. If the individual later returns to the severe weather shelter and the original bed was given to another individual, the Provider shall give the individual another bed. If

no bed is available, the Provider shall arrange transportation for the individual to a severe weather shelter with an available bed.

2503 INTAKE FOR LOW BARRIER SHELTER FOR INDIVIDUAL ADULTS

2503.1 Intake for low barrier shelter for individual adults shall consist of eligibility determination and placement in shelter.

2503.2 An individual adult applicant shall apply directly to and be determined eligible for low barrier shelter by the Provider from whom the individual is seeking services.

2503.3 Placement of eligible applicants in a specific low barrier shelter shall be on a first come, first served basis, except as provided for in this chapter. The Department shall set forth in policy specific guidance on the low barrier shelter first come, first served intake process.

2503.4 Low barrier shelter programs may make an exception to the first come, first served policy for persons who have difficulty meeting the intake time due to work, a medical appointment, or other necessary obligation. The Department shall set forth in policy the criteria for the exception to a first come, first served policy, the steps a client must take to qualify for this exception, and the basis upon which the client may lose the exception.

2503.5 Providers shall include in the program's approved program rules the Department's policy for first come, first served intake and the exceptions to the first come, first served intake process.

2503.6 If an applicant to a low barrier shelter is determined eligible, but there is no available space in the shelter, the shelter may arrange transportation to another appropriate shelter that has available space.

2503.7 A Provider of low barrier shelter may fill a bed or unit allocated to an individual who leaves the facility for more than thirty (30) minutes after lights out. If the individual later returns to the shelter and the original bed was given to another individual, the Provider shall give the individual another bed. If no bed is available, the Provider may arrange transportation for the individual to a low barrier shelter with an available bed.

2504 ASSESSMENT AND REFERRAL FOR INDIVIDUAL ADULTS IN LOW BARRIER SHELTER

2504.1 Individuals receiving low barrier shelter services shall be offered assessment and case management services with an appropriately trained, qualified, and supervised case manager.

2504.2 Individuals in low barrier shelter may choose to have an assessment interview with a case manager for the purpose of developing a Service Plan and identifying resources and programs for which the individual may be eligible. A Service Plan is not required for the client to receive referrals to resources and programs for which the individual may be eligible.

2504.3 For participants in low barrier shelters, the case manager shall seek to make the appropriate referrals that best support an individual's return to, or placement in, permanent or transitional housing.

2504.4 For participants in low barrier shelters, an individual that is referred to a program, but cannot immediately be served due to lack of capacity, may be placed on one or more waiting lists for the program from which the individual is seeking services, if the Provider maintains a waiting list.

2505 INTAKE FOR TEMPORARY SHELTER FOR INDIVIDUAL ADULTS

2505.1 Intake for temporary shelter for individual adults shall consist of an eligibility determination and placement in shelter.

2505.2 An individual adult applicant shall apply directly to and be determined eligible for temporary shelter by the Provider from whom the individual is seeking services.

2506 ASSESSMENT AND REFERRAL FOR INDIVIDUAL ADULTS IN TEMPORARY SHELTER

2506.1 Individuals receiving temporary shelter services for individual adults shall be provided assessment and case management services with an appropriately trained, qualified, and supervised case manager.

2506.2 Individuals residing in temporary shelters shall participate in the assessment and case management services provided.

2507 INTAKE FOR FAMILIES – PURPOSE AND APPLICATION

2507.1 Intake for families shall be conducted at one or more central intake centers. Intake shall consist of application, general eligibility determination, determination of immediate needs, and initial referral.

2507.2 Each family seeking assistance shall complete an application. The application shall be in writing on a form prescribed by the Department and shall be signed by the applicant and submitted to a central intake center.

2507.3 If a family includes more than one head of household, it is not necessary for both adults to be present at the time of application.

- 2507.4 A family applicant may be required to provide as part of the application the following information necessary to determine the family's general eligibility for shelter or supportive housing:
- (a) Housing status and history, including prior receipt of shelter or housing services through the Continuum of Care;
 - (b) Family composition;
 - (c) Employment status and history;
 - (d) Income and source of income, including public benefits; and
 - (e) Assets.
- 2507.5 A family applicant may be asked to provide additional information necessary to determine the family's immediate needs and make appropriate initial referrals.
- 2507.6 Each family applicant shall provide documentation that is reasonably available to the applicant in support of the application.
- 2507.7 A family applicant shall be allowed up to seven (7) days from submission of the application to provide necessary documentation not available at the time of application; however, the intake center shall not delay or deny an eligibility determination or initial referral because of lack of documentation.
- 2507.8 If a family applicant is unable to provide necessary documentation within seven (7) days of the application, the intake center may either extend the time frame for providing the documents based on the particular circumstances or waive the requirement for the documentation, provided the applicant signs an affidavit containing the necessary information, such as residency status, or state of homelessness.
- 2507.9 Any applicant who requires assistance with filling out the application form may request and shall receive such assistance.
- 2507.10 If a request for assistance is made by an applicant with a disability, or by the authorized representative of an applicant with a disability, the Provider or the intake center shall assist such applicant or authorized representative with any aspect of the application process necessary to ensure that the applicant with a disability has an equal opportunity to submit an application.
- 2507.11 Pursuant to section 2546, a person with a disability may request a reasonable modification at any time during the application process. Requests may be oral or in writing. Oral requests shall be reduced to writing by the applicant, intake or

Provider staff, or any person identified by the individual, and submitted in accordance with the Provider or intake center policy and procedure.

2508 INTAKE FOR FAMILIES – ELIGIBILITY AND PRIORITY DETERMINATIONS FOR SHELTER OR SUPPORTIVE HOUSING

2508.1 Based on the information received from the completed and signed application and an intake interview with the applicant, the intake center shall make a determination of general eligibility, based on the criteria set forth in 2501, and a determination of priority for shelter and supportive housing, based on the criteria set forth in 2508.2.

2508.2 Priority for the initial appropriate referral to shelter or supportive housing shall be made based on the chronological order in which the family applied for assistance and in accordance with the following priorities:

(a) Degree of homelessness:

- (1) A family that is homeless and living in a place not intended as a residence, such as outdoors, or in a vehicle, or in a condemned or abandoned building, or that is living in any situation that is dangerous to the health or safety of any household member shall be given the highest priority;
- (2) A family that is homeless and living with another household or in another living situation that is tenuous and in which the family's right to remain has been revoked shall be given the second highest priority; and
- (3) A family that is at imminent risk of becoming homeless, such as when the family is at risk of foreclosure or eviction, or is living with another household but the family's right to remain has not yet been revoked shall be given the third highest priority.

(b) The intake center may further prioritize the initial referral based on:

- (1) Housing unit availability, including:
 - (A) Availability of units;
 - (B) Size of available units;
 - (C) Affordability of units; or
 - (D) Expected wait time of a program's specific wait list;

- (2) The family's ability to meet additional eligibility requirements of particular programs and Providers;
 - (3) Input from the family in development of appropriate referrals received during intake and assessment;
 - (4) Whether the family has a Child and Family Services Agreement allowing overnight visitation with a child or children as part of a goal of reunification; and
 - (5) Other relevant factors that affect a family's vulnerability.
 - (c) For purposes of this section, the date and time used for determining "chronological order" shall be the date and time the intake center received the applicant's most recent signed application. The intake center staff shall document receipt of the signed application by date and time stamping or manually recording the date and time the signed application is received by the intake center.
- 2508.3 The intake center may re-determine a family's ranking or priority at any time based on assessment, re-assessment, or new or changed information or circumstances.
- 2508.4 If the intake center determines that a family applicant meets the eligibility criteria set forth in section 2501, the intake worker shall provide the applicant with a Notice of Eligibility and Priority Determination for Family Shelter, which shall include:
- (a) A clear statement of the family's general eligibility for shelter;
 - (b) The date and time the family's signed application was determined to have been received by the intake center;
 - (c) The family's priority pursuant to 2508.2; and
 - (d) A clear and complete statement of the client's right to appeal the eligibility and priority determination through a fair hearing and administrative review, including the appropriate deadlines for instituting the appeal.
- 2508.5 Upon giving the applicant the Notice of Eligibility and Priority Determination for Family Shelter, the intake center shall also orally inform the applicant of the priority determination assigned to the family, and provide an explanation to the family of the basis of such determination.
- 2508.6 If the intake center determines that a family applicant is not eligible for family shelter or supportive housing, the intake worker shall provide the applicant with a Notice of Denial of Eligibility, which shall include:

- (a) A clear and detailed statement of the factual basis for the denial;
- (b) A reference to the statute, regulation, or Program Rule that is the legal basis of the denial;
- (c) A clear and complete statement of the client's rights to appeal the denial through a fair hearing and administrative review, including deadlines for instituting the appeal.

2509 FAMILY SHELTER AND SUPPORTIVE HOUSING REFERRALS

- 2509.1 Based on the information received from the completed and signed application and an intake interview with the applicant, and the priority determination for shelter or supportive housing, the intake center shall make the appropriate referral that best prevents placement in shelter or best supports a family's ultimate return to or placement in permanent housing.
- 2509.2 If the applicant family can be prevented from becoming homeless through case management, emergency rental assistance, or other programs designed to stabilize or re-establish families in non-shelter housing, the intake center shall make the appropriate referral to such programs. At any time, the applicant may also request and submit an application to shelter or supportive housing programs for which they may be eligible but for which they did not receive a referral.
- 2509.3 All applicants placed in shelter shall be referred for an assessment with an appropriately trained, qualified, and supervised assessment specialist.
- 2509.4 All applicants placed in shelter shall be provided with a site-based case manager, unless a Client Advocate is provided.
- 2509.5 If a Client Advocate is provided, applicants shall be given the choice of selecting a Client Advocate with a particular specialty.

2510 FAMILY ASSESSMENT

- 2510.1 A family that receives a shelter or supportive housing placement shall be referred for a full assessment. The purpose of the assessment is to:
- (a) Assess the family's full range of needs, including housing, medical, behavioral, economic, educational, and employment;
 - (b) Develop an initial Service Plan, in consultation with the client and the Client Advocate if applicable;

- (c) Make any necessary referrals based on the family's immediate needs and priority determination; and
- (d) If not yet given an initial referral to address shelter or housing issue, make the initial appropriate shelter or supportive housing or other referral that best prevents placement in shelter or best supports a families' ultimate return to or placement in permanent housing.

2510.2 The family assessment shall be primarily conducted by a licensed social worker or other qualified, certified or licensed, professional. Other professionals, including psychologists, psychiatrists, and other professionals relevant to a client's needs, may also participate in the assessment as needed.

2510.3 The family shall be re-assessed at specified intervals as determined by the family's Service Plan.

2511 FAMILY CASE MANAGEMENT

2511.1 A Client Advocate or a site-based case manager shall be assigned to a family either during the intake process or following placement.

2511.2 With active participation from the family, the Client Advocate or site-based case manager shall develop the family's Service Plan. The Service Plan shall include, at a minimum, a listing of the family's strengths and challenges, as well as the goals and milestones necessary for the family to attain permanent housing and achieve the highest degree of self-sufficiency possible.

2511.3 The Client Advocate or site-based case manager shall assist the family to achieve the goals listed in the Service Plan, make referrals for services as needed, coordinate the family's receipt of services, ensure that the family is connected to services, assist the family with working towards a long-term permanent housing placement, and monitor and track the family's progress toward reaching the Service Plan goals.

2511.4 The Client Advocate or site-based case manager shall review with the family the family's progress towards achieving the Service Plan goals at least one time each month.

2511.5 The Client Advocate or site-based case manager shall update with the family the family's Service Plan at least every 90 days.

2512 CLIENT RIGHTS

- 2512.1 At all times, clients shall be treated by Providers and the Department with dignity and respect.
- 2512.2 Clients shall be able to access services within the Continuum of Care free from discrimination on the basis of race, color, religion, national origin, language, culture, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, and source of income, and in accordance with the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 et seq.), the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 328; 42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973, approved August 7, 1998 (112 Stat. 1095; 29 U.S.C. § 701 et seq.), Title II of the Civil Rights Act of 1964, approved July 2, 1964 (78 Stat. 243; 42 U.S.C. § 2000a et seq.), and the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1931 et seq.).
- 2512.3 Clients shall receive reasonable modifications to policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the client's Provider demonstrates that the modifications would fundamentally alter the nature of the services.
- 2512.4 Clients shall be able to access services within the Continuum of Care free from verbal, emotional, sexual, financial, and physical abuse and exploitation.
- 2512.5 Clients shall receive shelter in severe weather conditions.
- 2512.6 Clients shall, at a reasonable time and with reasonable prior notice, be permitted to view and copy, or have an authorized representative view and copy, all records and information that are related to the client and maintained by the client's Provider, including any relevant personal, social, legal, financial, educational, and medical records and information, subject to the provisions of subsection 2512.7.
- 2512.7 Clients shall be entitled to confidential treatment by the Department and Providers of personal, social, legal, financial, educational, and medical records and information related to a client or any member of a client's family, whether obtained from the client or from any other source, in a manner consistent with the confidentiality requirements of District and federal law.
- 2512.8 Clients shall be permitted to engage in or abstain from the practice of religion, including the religion of a particular Provider or other clients.
- 2512.9 Upon request, Clients shall be provided with the name and job title of any Provider staff member delivering services.

- 2512.10 Clients shall be permitted to provide input and feedback to Providers on their delivery of services.
- 2512.11 Clients shall be permitted to file complaints with, testify before, or provide information to a Provider or the Mayor regarding the Provider's delivery of services or treatment of the client.
- 2512.12 Clients shall be permitted to participate actively in the development of any Service Plan for the client, be told of the progress made toward the goals of that Service Plan, and receive a review of the Service Plan upon request;
- 2512.13 Clients shall not be subject to testing for drugs or alcohol except when:
- (a) Program guidelines prohibit intoxication and a licensed social worker with experience identifying indications of drug or alcohol use or a certified addiction counselor determines that there is reasonable cause to believe that the client is engaging in drug or alcohol use; or
 - (b) A client consents to drug or alcohol testing as part of the client's Service Plan developed in accordance with subsection 2512.12.
- 2512.14 Clients shall be permitted to meet and communicate privately with attorneys, advocates, clergy, physicians, and other professional.
- 2512.15 Clients shall be given timely and adequate notice of a Provider's Program Rules as set forth in section 2515.20.
- 2512.16 Clients shall be given timely and adequate notice of any denial of services, transfer to another Provider, or suspension or termination of services as set forth in this chapter.
- 2512.17 Clients shall be permitted to appeal where permitted by sections 2550.1 and 2550.2 any decision by the Department or a Provider that adversely affects the client's receipt of shelter or supportive housing services.
- 2512.18 Clients shall be free from retaliation, punishment, or sanction for exercising any rights provided under this Act.
- 2512.19 Clients shall be provided continuation of shelter and supportive housing services without change, other than transfer pursuant to section 20 of the Act or emergency transfer, suspension, or termination pursuant to section 24 of the Act, pending the outcome of any fair hearing requested within 15 calendar days of receipt of written notice of a suspension or termination.

2513 ADDITIONAL RIGHTS FOR CLIENTS IN TEMPORARY SHELTER OR SUPPORTIVE HOUSING

- 2513.1 Clients shall be permitted to receive visitors in designated areas of the shelter or housing premises during reasonable hours and under such reasonable conditions as specified in the Provider's approved Program Rules.
- 2513.2 Clients shall be permitted to leave and return to the shelter or housing premises within reasonable hours as specified by the Provider's approved Program Rules.
- 2513.3 Clients shall receive reasonable prior notice specifying the date and time of any inspections of a client's living quarters and of the Provider staff member authorized to perform the inspection, except when, in the opinion of the Provider's executive or program director, there is reasonable cause to believe that the client is in possession of a substance or object that poses an imminent threat to the health and safety of the client or any other person on the Provider's premises. Reasonable cause shall be documented in the client's record.
- 2513.4 Clients shall be permitted to be present or have an adult member of the family present at the time of any inspection unless, in the opinion of the Provider's executive or program director, there is reasonable cause to believe that the client is in possession of a substance or object that poses an imminent threat to the health and safety of the client or any other person on the Provider's premises. Reasonable cause shall be documented in the client's record.
- 2513.5 Clients shall be provided reasonable privacy in caring for personal needs and in maintaining personal living quarters.
- 2513.6 Clients shall be permitted to conduct their own financial affairs, subject to the reasonable requirements of the Provider's Program Rules developed and approved in accordance with section 2515.17, or subject to a Service Plan developed pursuant to section 2512.12.

2514 CLIENT RESPONSIBILITIES

- 2514.1 Clients shall seek appropriate permanent housing or Housing First, except when the client is residing in severe weather and low barrier shelter.
- 2514.2 Clients shall seek employment, education, or training when appropriate, except when the client is residing in severe weather and low barrier shelter.
- 2514.3 Clients shall refrain from the following behaviors while on a Provider's premises:
- (a) The use or possession of alcohol or illegal drugs;
 - (b) The use or possession of weapons;

- (c) Assaulting or battering any individual, or threatening to do so; and
- (d) Any other acts that endanger the health or safety of the client or any other individual on the premises.

- 2514.4 Clients shall ensure that children within the client's family and physical custody are enrolled in school, where required by law.
- 2514.5 Clients shall ensure that the client's minor children receive appropriate supervision while on the Provider's premises.
- 2514.6 Clients shall utilize child care services when necessary to enable the adult client to seek employment or housing or to attend school or training, unless the client meets any of the exemptions of section 519g of the District of Columbia Public Assistance Act of 1982, effective April 20, 1999 (D.C. Law 12-241; D.C. Official Code § 4-205.19g), or section 5809.4(b)-(e) of Title 29 of the District of Columbia Municipal Regulations, including any subsequent revisions.
- 2514.7 Clients shall respect the safety, personal rights, and private property of Provider staff members and other clients.
- 2514.8 Clients shall maintain clean sleeping and living areas, including bathroom and cooking areas.
- 2514.9 Clients shall use communal areas appropriately, with attention to cleanliness and respect for the interests of other clients.
- 2514.10 Clients shall be responsible for one's own personal property.
- 2514.11 Clients shall follow all Program Rules established by a Provider pursuant to section 2515.17.
- 2514.12 Clients residing in temporary shelter and transitional housing shall participate in the assessment and case management services.

2515 PROVIDER STANDARDS FOR SHELTER AND SUPPORTIVE HOUSING

- 2515.1 All Providers of shelter and supportive housing shall meet the requirements of this section, as well as any additional requirements specific to the type of program provided as set forth elsewhere in these rules.
- 2515.2 Providers shall ensure staff members are appropriately trained, qualified, and supervised.

- 2515.3 Providers shall maintain safe, clean, and sanitary facilities that meet all applicable District health, sanitation, fire, building, and zoning codes. If it is not the responsibility of the Provider to correct an identified deficiency, the Provider shall promptly report to the Department or the appropriate agency the deficiency for corrective action, according to the applicable procedures.
- 2515.4 Providers in all types of shelter and supportive housing shall assist clients to prepare for living in permanent housing, as deemed appropriate by the Provider and the client. Providers shall support the client's progress toward achieving goals set forth in the client's Service Plan, including the review of any Provider policies and procedures that are inconsistent with such goals.
- 2515.5 Providers shall collaborate and coordinate with other service Providers to meet the client's needs, as deemed appropriate by the Provider and the client. Providers shall strive to assist clients in connecting to and receiving appropriate services.
- 2515.6 Providers shall receive and utilize client input and feedback for the purpose of evaluating and improving the Provider's services. At a minimum, Providers shall hold regularly scheduled meetings at least once monthly with staff and clients to provide an open forum for clients to provide feedback to Providers and foster on-going communication between clients and staff.
- 2515.7 Providers shall establish procedures for the Provider's internal complaint procedures and, in addition to any other method, shall give notice to clients of these procedures through the Provider's approved program rules.
- 2515.8 Providers shall provide each client with printed information, distributed by the Department, describing the available services within the Continuum of Care, or other meaningful and up-to-date access to services information.
- 2515.9 Client Advocates, and any other shelter or supportive housing case management staff shall be trained on the available services information and shall discuss with each client as applicable.
- 2515.10 Site-based Providers shall provide to clients information regarding laundry facilities in close proximity to the shelter.
- 2515.11 Providers shall ensure that all clients are informed of services for which they may be eligible.
- 2515.12 Providers shall ensure the delivery of culturally competent services and provide language assistance for clients with limited English proficiency.
- 2515.13 Providers shall provide services free from discrimination on the basis of race, color, religion, national origin, language, culture, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family

responsibilities, matriculation, political affiliation, genetic information, disability, and source of income, and in accordance with the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 *et seq.*), the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 328; 42 U.S.C. § 12101 *et seq.*), the Rehabilitation Act of 1973, approved August 7, 1998 (112 Stat. 1095; 29 U.S.C. § 701 *et seq.*), and Title II of the Civil Rights Act of 1964, approved July 2, 1964 (78 Stat. 243; 42 U.S.C. § 2000a *et seq.*).

- 2515.14 Providers shall provide reasonable modifications to policies, practices, and procedures in accordance with section 2546 when the modifications are necessary to avoid discrimination on the basis of disability, unless the Provider demonstrates that making the modifications would fundamentally alter the nature of the services or pose an undue administrative or financial burden.
- 2515.15 Providers shall ensure confidential treatment of the personal, social, legal, financial, and medical records and information related to a client or any member of a client's family, whether obtained from the client or from any other source, consistent with the confidentiality requirements of District and federal law. Providers shall ensure that all staff and volunteers are properly trained in these confidentiality requirements.
- 2515.16 Providers shall notify all applicants and clients that information about the client's receipt of services shall be included in the DC Homeless Management Information System (HMIS) for purposes of program administration and evaluation, and, that such information shall be maintained in a confidential manner consistent with the requirements of District and federal law. Domestic violence shelters and housing programs subject to the Violence Against Women Act, and the Department of Justice Reauthorization Act of 2005, 42 U.S.C. § 11383, *et seq.*, shall notify all applicants and clients that the Provider shall only provide in the aggregate non personally identifying demographic information regarding services to their clients and nonpersonally identifying demographic information to HMIS.
- 2515.17 Providers may establish Program Rules related to the specific goals of their program. Program Rules shall include:
- (a) Any applicable special eligibility requirements for the purpose of limiting entry into the program to individuals or families exhibiting the specific challenges that the program is designed to address, except in severe weather shelter and low barrier shelter;
 - (b) Client responsibilities, including those listed in section 2514;
 - (c) Client rights, including those listed in sections 2512, and where applicable, section 2513;

- (d) The internal complaint procedures established by the Provider for the purpose of providing the client with an opportunity to promptly resolve complaints;
- (e) Procedures by which an individual with a disability may request a reasonable modification pursuant to section 2546;
- (f) The procedures and notice requirements of any internal mediation program established by the Provider;
- (g) The program's client property and storage policy and any procedures;
- (h) Sanctions that a Provider may apply to clients who are in violation of the Program Rules, including transfer, suspension, termination as allowed by this chapter, as well as any alternative program sanctions; and
- (i) The client's right to appeal through a fair hearing and administrative review, including the appropriate deadlines for instituting the appeal.

2515.18 Providers shall submit their Program Rules to the Department for approval:

- (a) Annually with any proposed changes clearly identified; and
- (b) Whenever a Provider seeks to change its eligibility criteria, the rules of its internal grievance or mediation procedures, or its program sanctions.

2515.19 No Provider may enforce any provision within its Program Rules, other than those requirements or protections specifically enumerated by this Chapter, unless the Department has approved the Program Rules in accordance with this section.

2515.20 Providers shall give prompt and effective notice of their Program Rules to clients by:

- (a) Posting a copy of their Program Rules on the Provider's premises in a location easily accessible to clients and visitors; and
- (b) Giving every new client written notice of the Provider's Program Rules, and reading and explaining the written notice to the client.

2515.21 The client and the Provider staff member delivering the notice pursuant to section 2515.20(b) shall both sign a statement acknowledging the client's receipt of the notice and indicating the client's awareness, understanding, and acceptance of the Program Rules.

2515.22 Providers shall establish procedures to provide effective notice of the Program Rules to clients with special needs, including those who may be mentally impaired

or mentally ill, or who may have difficulty reading or have limited English proficiency.

- 2515.23 Providers shall submit an Unusual Incident Report to the Department for investigation or review, according to the Department's Unusual Incident Report policy and procedures. Providers shall complete the Unusual Incident Report form prescribed by the Department and include, where applicable, any actions or resolution taken to ameliorate the unusual incident.

2516 ADDITIONAL SEVERE WEATHER SHELTER REQUIREMENTS

- 2516.1 Providers of Severe Weather Shelter shall meet the requirements of section 2515 as well as the additional requirements set forth in this section.
- 2516.2 Hypothermia shelters shall be operated in accordance with and pursuant to the District of Columbia Hypothermia procedures set forth in Mayor's Order 2001-161, or any subsequent Mayor's Order.
- 2516.3 Providers of Hypothermia Shelter shall provide a clean bed, clean linens, including a bottom sheet and a top sheet, clean pad, and clean blanket for each bed.
- 2516.4 Providers of Hypothermia Shelter shall either provide for a client's basic needs, including food, clothing, and supportive services, or provide information as to where the client can obtain food, clothing, and supportive services.
- 2516.5 Providers of Hypothermia shelter shall provide properly functioning toilet facilities, including toilet paper, functional sink with hot water, and soap. Those Providers of Hypothermia shelter operating in publicly-owned facilities shall provide 24 hour access to such toilet facilities.
- 2516.6 Providers of Hypothermia and Hyperthermia Shelter shall provide cool water, available via water cooler, fountain, or other means.
- 2516.7 Providers of Hypothermia and Hyperthermia Shelter shall provide properly functioning heating and cooling systems during the appropriate seasons. If it is not the responsibility of the Provider to correct an identified deficiency, the Provider shall promptly report to the Department or the appropriate agency the deficiency for corrective action, according to the applicable procedures.

2517 ADDITIONAL LOW BARRIER SHELTER REQUIREMENTS

- 2517.1 Providers of Low Barrier Shelter shall meet the requirements of sections 2515 and 2516 as well as the additional requirements set forth in this section.
- 2517.2 Providers of Low Barrier Shelter shall ensure that all clients are offered case management services as set forth in section 2504.
- 2517.3 Providers of Low Barrier Shelter shall provide clean, hot shower facilities.
- 2517.4 Providers of Low Barrier Shelter shall make available personal hygiene supplies, including bath size towels, washcloth, soap, shampoo, deodorant, toothpaste, and toothbrushes.
- 2517.5 Providers of Low Barrier Shelter shall make available upon request basic cleaning supplies, such as disinfectant, mop, and broom.

2518 ADDITIONAL TEMPORARY SHELTER AND SUPPORTIVE HOUSING REQUIREMENTS

- 2518.1 Providers of temporary shelter and supportive housing shall meet the requirements of sections 2515 through 2517, as well as the additional requirements set forth in this section.
- 2518.2 Providers under this section shall ensure that an appropriately trained, qualified, and supervised case manager provides each client an assessment in order to identify each client's service needs.
- 2518.3 Providers under this section shall ensure direct provision of, or referral to, appropriate supportive services to enable the client to fulfill the goals and requirements in the client's Service Plan.
- 2518.4 Providers under this section of programs in which clients do not have independent units shall provide mail and phone services, or procedures for handling mail and phone messages, that enable the client to receive mail and messages without identifying the client as residing in temporary shelter or supportive housing.
- 2518.5 Providers under this section in which clients do not have independent units shall provide private, secure space for the temporary storage of personal belongings.
- 2518.6 Providers under this section shall provide access to laundry facilities in the immediate vicinity of the shelter or supportive housing facility when all of the units are in one location.

- 2518.7 Providers under this section in which clients do not have independent units shall provide reasonable access to phones during reasonable hours and during emergencies.
- 2518.8 Providers under this section shall provide clients with the opportunity to establish a voluntary savings or escrow account. Providers may encourage clients, as part of the financial planning section of the client's Service Plan, to establish a savings or escrow account based on the client's individual circumstances and service goals.
- 2518.9 Providers of family shelter or supportive housing shall provide clients with access to immediate indoor or outdoor areas equipped with basic facilities for exercise and play for use by minor children.

2519 ADDITIONAL TRANSITIONAL HOUSING REQUIREMENTS

- 2519.1 Providers of Transitional Housing shall meet the requirements of sections 2515 through 2518 as well as the additional requirements set forth in this section.
- 2519.2 Providers of Transitional Housing shall offer follow-up supportive services, for a minimum of 6 months, to clients who have transferred to permanent housing from their program, unless the client is receiving such supportive services from another Provider.
- 2519.3 Providers of Transitional Housing shall provide an apartment-style or group home housing accommodation.
- 2519.4 Providers of Transitional Housing offered in a group home setting shall provide clients with access to private space and personal time.

2520 CLIENT PROPERTY AND STORAGE REQUIREMENTS

- 2520.1 Providers of hypothermia and low barrier shelter shall adopt reasonable policies regarding client property based on the available space and reasonable needs of the clients which shall include:
- (a) The amount of belongings a client may bring into the shelter, which shall be, at a maximum, two medium size bags or the equivalent;
 - (b) Any limitations, based on health and safety considerations, on what clients may bring into the shelter;
 - (c) Whether lockers or other storage is available, under what conditions, and under what conditions a Provider may open, inspect or remove property;

(d) The client's responsibility to manage their property while on the shelter premises and any limits on the Provider's liability for lost, stolen, or damaged property; and

(e) The Provider's policies regarding abandoned property.

2520.2 Hypothermia and low barrier shelter Providers shall submit the shelter's client property and storage policy to the Department along with the Provider's program rules for annual approval by the Department. Providers shall give clients notice of these policies along with the Provider's approved program rules.

2520.3 Temporary shelter and supportive housing Providers, except Providers who provide apartment style shelter and supportive housing, shall provide private, secure space for the temporary storage of personal belongings. Provision of temporary storage shall take into consideration the available space and reasonable needs of clients.

2520.4 When a client leaves a temporary shelter or supportive housing program, whether the client leaves voluntarily or as a result of a transfer or termination, the Provider shall hold any belongings the client does not take with them to a new placement for a minimum of seven (7) calendar days following the client's departure, except that when a Provider provides the client with moving services, the Provider shall not be required to hold any belongings left after the moving service has completed the move. After seven (7) days following the client's departure (and where no moving services are provided), the Provider may dispose of any remaining belongings.

2521 TRANSFER OF INDIVIDUALS AND FAMILIES IN SHELTER AND SUPPORTIVE HOUSING

2521.1 Providers are strongly encouraged to use transfer as the primary mechanism for assisting clients to find the most appropriate placement and services within the Continuum of Care, including making reasonable efforts to transfer a client prior to taking action to terminate services to a client.

2521.2 A Provider may transfer a client to another Provider to ensure the client receives the most appropriate services available within the Continuum of Care whenever:

(a) The client consents to the transfer, including a transfer requested by the client; or

(b) The Provider identifies and secures for the client a placement with another Provider that more appropriately meets the client's medical, mental health, behavioral, or rehabilitative service needs in accordance with the client's Service Plan. If the client is being transferred because of domestic violence, the Provider shall expedite the transfer.

- (c) A more appropriate placement may include transfer to a different level of service or type of program based on the circumstances upon which the transfer is based, including a transfer when the facility or program in which the client is currently receiving services is ending operations.

2521.3 In addition to the provisions for transfer in subsection 2521.2, a Provider may transfer a client when a client fails or refuses to comply with the Provider's Program Rules and the client responsibilities set forth in section 2514, provided, that:

- (a) The client has received proper notice of the approved Program Rules as required by section 2515.20; and
- (b) The Provider has made a good-faith effort to enable the client to comply with the Program Rules so that the client is able to continue receiving services without a transfer.

2521.4 Notwithstanding subsection 2503.3, a low barrier shelter may agree to guarantee a bed for a client for one week to meet the requirements of 2521.5.

2521.5 For purposes of subsection 2521.2(b), a low barrier shelter shall have secured a placement for a transferring client pursuant to subsection 2521.2 and 2521.3 when the shelter has agreed to guarantee a bed for that client for one week. The decision whether or not to provide a guaranteed bed to facilitate a transfer shall be at the discretion of the Provider. For purposes of this subsection, to guarantee a bed at a low barrier shelter means:

- (a) The Provider shall hold a bed for the transferee each night for up to a week following the effective date of the transfer;
- (b) Each night when a bed is to be guaranteed, the Provider shall hold a bed for the transferee for a minimum of two hours beyond the end of the shelter's intake period;
- (c) If the transferee has not arrived at the shelter at least two hours beyond the end of the shelter's intake period the Provider may give the held bed to another client who needs a bed; and
- (d) If the transferee does not stay at the shelter for two consecutive nights without prior approval from the Provider, the Provider is under no obligation to continue to hold the bed for the remainder of the original one week period.

2521.6 If a Provider determines that an individual or family, based on existing or reasonably expected change in circumstances such as reunification with children, change in child care, legal or physical custody arrangements, childbirth, or other

similar change in the client's circumstances, is eligible and more appropriate for other shelter or supportive housing, the Provider may initiate a transfer of the resident to a more appropriate placement, pursuant to subsection 2521.2.

- 2521.7 If a family no longer meets the criteria for family shelter or supportive housing due to the removal of the child or children by the District of Columbia Child and Family Services Agency (CFSA), or loss of custody pursuant to an agreement or Court order, and there are no children remaining in the home, then the parent(s) shall be transferred in accordance with subsection 2521.2 to a shelter or program that assists parents with reunification, if appropriate, based on the circumstances and if a placement is available; or, to an individual adult shelter(s), if a placement that assists parents with reunification is not available or appropriate.
- 2521.8 When the Child and Family Services' Service Agreement allows overnight visitation with a child or children, then the family may re-apply for family shelter or supportive housing, and shall be given the highest priority for placement based on the need for reunification, pursuant to section 2508.
- 2521.9 For the purpose of subsections 2521.2 and 2521.3, a Provider has secured a placement for the client when the program with the new placement has agreed to accept the transferee and confirmed that a bed or unit is available and will be held through the effective date of transfer, subject only to reasonable requirements by the new placement on the transferee, except as provided in 2521.10.
- 2521.10 A Provider has secured a placement in a low barrier shelter when the low barrier shelter Provider has agreed to guarantee a bed as of the effective date of a transfer in accordance with section 2521.5. If the client requests to be able to transfer prior to the effective date, the receiving low barrier shelter shall attempt to provide the guaranteed bed prior to the effective date of the transfer to the extent possible.
- 2521.11 Providers may transfer clients through direct arrangements with other Providers or through coordination with a central intake center or other central transfer mechanism.
- 2521.12 A Provider shall give written and oral notice to clients of their transfer to another Provider at least fifteen (15) days prior to the effective date of the transfer, except for emergency transfers pursuant to section 2524. The Provider shall give the client written notice using a form prescribed by the Department.
- 2521.13 The Provider shall not issue a notice of transfer until a placement is secured as defined by section 2521.9 or 2521.10.
- 2521.14 Any notice of transfer issued pursuant to this subsection shall be mailed to or served upon the client and shall include:

- (a) A clear statement of the placement to which the client is being transferred and the effective date of the transfer;
- (b) A clear and detailed statement of the factual basis for the transfer, including the date or dates on which the basis or bases for the transfer occurred;
- (c) A reference to the statute, regulation, or Program Rule pursuant to which the transfer is being implemented; and
- (d) A clear and complete statement of the client's right to appeal the transfer through a fair hearing and administrative review, including the appropriate deadlines for instituting the appeal.

2521.15 The client shall move to the new placement by the effective date of the transfer. The client may consent to move to the new placement any time before the effective date of the transfer in coordination with the new placement, except as provided by 2521.10.

2521.16 If the new placement requires certain procedures or paperwork in order for the transferred client to access the placement, the new placement shall communicate such requirements to the client, either through the originating placement, the client's coordinating case manager, or directly to the client. The client shall comply with the Provider's requirements to access the new placement. A client's failure to comply with the requirements for accessing the new placement shall not invalidate the transfer or allow the client to remain in the original placement.

2521.17 If a client does not consent to the transfer, the client may appeal the transfer pursuant to section 2550, but the client shall move to the new placement while awaiting the outcome of the appeal. The client shall not have the right to remain in the original placement pending the outcome of the appeal.

2521.18 If the client appeals the transfer, and the Provider's transfer decision is not upheld, the client shall be returned to the original placement unless the program or facility has closed.

2521.19 If, following a client's successful appeal, the original placement has no available unit or bed, the client shall receive the first available opening at the original placement, unless a placement elsewhere is available and the client consents to the alternate placement.

2521.20 If the original program or facility is closed, the client shall receive the first available placement in a program providing services as comparable to the pre-transfer placement as possible.

2521.21 When a Provider or the Department closes a severe weather shelter at the end of the severe weather season, the Provider shall give clients using the program or facility

at least fifteen (15) days notice of the impending closure and information regarding alternative shelters.

2521.22 When a Provider or the Department closes a shelter program or facility other than a severe weather shelter at the end of the severe weather season, clients using the program or facility may be transferred pursuant to subsection 2521.2. Such transfers shall be made based on each client's assessment and Service Plan to the extent allowed by client participation, taking into consideration the number and type of available placements. The order of transfers may take into account the length of time in the program specifically or shelter system generally, or some other manner of allocating the necessary transfers in an equitable and objective manner.

2521.23 When a low barrier shelter is closing, to facilitate the closure and minimize the impact on those residents who are most reliant on that program, the low barrier shelter may transfer clients to other shelter or supportive housing programs, including low barrier shelters pursuant to 2521.5, giving priority to those persons who have the highest utilization rate over a certain period of time prior to transfer. Such transfers, especially where large numbers of individuals may be transferred during the same time period, shall be balanced with the need to ensure that the large majority of beds in other low barrier shelter remain available on a first-come, first serve basis.

2521.24 Clients transferred pursuant to this section shall take all their personal belongings to the new placement. A Provider may assist the client in the relocation of the client's property. The Provider shall treat any property left by the client at the originating placement in accordance with section 2520.

2521.25 Providers may not use the transfer authority provided under this subsection in any way that interferes with a client's tenancy rights under a lease agreement governed by Chapter 14 of the DC Municipal Regulations.

2522 SUSPENSION OF INDIVIDUALS AND FAMILIES IN SHELTER AND SUPPORTIVE HOUSING

2522.1 If a client fails or refuses to comply with the Provider's Program Rules and the client responsibilities listed in section 2514, or engages in any of the behaviors listed in section 2523.1(b), the Provider may suspend services to the client for an appropriate period of time in light of the severity of the act or acts leading to the suspension, but in no case for a period longer than thirty (30) days.

2522.2 A Provider may suspend a client from shelter, supportive housing, or supportive services only when:

- (a) The client has received proper notice of the Program Rules, including client responsibilities, and prohibited behaviors;

- (b) The Provider has made a good faith effort to enable the client to comply with the Program Rules so that the client is able to continue receiving services without suspension; and
 - (c) The Provider has made a reasonable effort, given the severity of the situation, to transfer the client to another Provider within the Continuum of Care.
- 2522.3 A Provider may not suspend adult individuals or adult family members in a manner that results in minor children or dependent adults being left unattended in a shelter or supportive housing unit.
- 2522.4 A Provider shall give written and oral notice to clients of their suspension from services at least fifteen (15) days prior to the effective date of the suspension, except for a suspension of supportive services for a period shorter than ten (10) days. For suspension of supportive services for a period shorter than ten (10) days, the Provider shall, at a minimum, give oral notice and document such notice to the client in the client's file.
- 2522.5 A Provider's written notice to a client of his or her suspension shall be on a form prescribed by the Department and shall include:
 - (a) A clear statement of the beginning and end date of the suspension;
 - (b) A clear and detailed statement of the factual basis for the suspension, including the date or dates on which the basis or bases for the suspension occurred;
 - (c) A reference to the statute, regulation, or Program Rule pursuant to which the suspension is being implemented;
 - (d) A clear and complete statement of the client's rights to appeal the suspension through a fair hearing and administrative review, including deadlines for instituting the appeal; and
 - (e) A statement of the client's right to continuation of shelter or supportive housing services pending the outcome of any fair hearing requested within fifteen (15) days of receipt of written notice of a suspension of such services.
- 2522.6 Providers may not use the suspension authority provided under this subsection in any way that interferes with a client's tenancy rights under a lease agreement governed by Chapter 14 of the District of Columbia Municipal Regulations.

**2523 TERMINATION OF INDIVIDUALS AND FAMILIES FROM SHELTER
AND SUPPORTIVE HOUSING**

2523.1 A Provider may terminate delivery of services to a client only when:

- (a) The Provider documents that it has considered suspending the client in accordance with section 2522, or, has made a reasonable effort, in light of the severity of the act or acts leading to the termination, to transfer the client in accordance with section 2521;
- (b) The client:
 - (1) Possesses a weapon on the Provider's premises;
 - (2) Possesses or sells illegal drugs on the Provider's premises;
 - (3) Assaults or batters any person on the Provider's premises;
 - (4) Endangers the client's own safety or the safety of others on the Provider's premises;
 - (5) Intentionally or maliciously vandalizes, destroys, or steals the property of any person on the Provider's premises;
 - (6) Fails to accept an offer of appropriate permanent housing or supportive housing that better serves the client's needs after having been offered two (2) appropriate permanent or supportive housing opportunities; or
 - (7) Knowingly engages in repeated violations of a Provider's Program Rules; and
- (c) In the case of terminations pursuant to subparagraphs (b)(6) and (b)(7) of this subsection, the Provider has made reasonable efforts to help the client overcome obstacles to obtaining permanent housing.
- (d) For purposes of this subsection, reasonable efforts to transfer shall be satisfied when the Provider, with the client's participation and input if possible, in light of the severity of the act or acts leading to termination:
 - (1) Determines what type of program or programs constitutes an appropriate transfer;
 - (2) Identifies the programs that offer such programs;

- (3) Determines, either through contacting a central transfer coordinator or by contacting the programs directly, which of the identified programs have available placements; and
 - (4) Offers to the client the transfer options that the Provider has identified or implements transfer to an appropriate placement.
 - (e) For purposes of paragraph (d), the phrase “severity of the act or acts” means the degree of interference the continuing presence of the client may have, as determined by the Provider, with other clients’ enjoyment of rights or on the Provider’s ability to meet the standards by which services are to be delivered to other clients.
- 2523.2 A Provider shall give written and oral notice to clients of their termination from services at least fifteen (15) days prior to the effective date of the termination.
- 2523.3 Prior to terminating a client for consecutive unapproved overnight absences totaling more than 72 hours pursuant to subsection 2523.1(b)(7), the Provider shall make reasonable efforts to locate the client, including using available contact information. If the absence remains unexplained, the Provider may proceed with termination and provide notice under this section to the extent feasible, which may include posting to the client’s unit or making the notice available to the person upon their return to the program.
- 2523.4 A Provider’s written notice to a client of his or her termination shall be on a form prescribed by the Department and shall include:
- (a) A clear statement of the effective date of the termination;
 - (b) A clear and detailed statement of the factual basis for the termination, including the date or dates on which the basis or bases for the termination occurred;
 - (c) A reference to the statute, regulation, or Program Rule pursuant to which the termination is being implemented;
 - (d) A clear and complete statement of the client’s rights to appeal the termination through a fair hearing and administrative review, including deadlines for instituting the appeal; and
 - (e) A statement of the client’s right to continuation of shelter or supportive housing services pending the outcome of any fair hearing requested within fifteen (15) days of receipt of written notice of a termination.

- 2523.5 When a Provider terminates an individual or family from a program, the termination applies only to the specific program and location from which the individual or family is terminated, except for scattered site programs that have no common location. The individual or family may seek services from other Providers within the Continuum of Care, as well as from other locations or programs offered by the Provider of the program from which they were terminated.
- 2523.6 Providers may not use the termination authority provided under this subsection in any way that interferes with a client's tenancy rights under an agreement governed by Chapter 14 of the District of Columbia Municipal Regulations.
- 2524 EMERGENCY TRANSFER, SUSPENSION, OR TERMINATION OF INDIVIDUALS AND FAMILIES FROM SHELTER AND SUPPORTIVE HOUSING**
- 2524.1 A Provider may immediately transfer, suspend, or terminate a client, without providing prior written notice of the action, whenever a client presents an imminent threat to the health or safety of the client or any other person on a Provider's premises. For purposes of this section, imminent threat to the health or safety means an act or credible threat of violence on the premises of a shelter or supportive housing facility.
- 2524.2 Providers may not use the emergency transfer, suspension, or termination authority provided under this subsection in any way that interferes with a client's tenancy rights under an agreement governed by Chapter 14 of the District of Columbia Municipal Regulations.
- 2524.3 The Provider shall consider the severity of the act or acts leading to the imminent threat when deciding whether to proceed with an emergency transfer, suspension, or termination of the client. Providers are encouraged, when appropriate, to try to diffuse the situation by such means as separation, mediation, or non-emergency transfer, suspension, or termination, if feasible, as an alternative to or prior to taking an emergency action.
- 2524.4 If necessary to meet the terms of a protective order, the client against whom another party has a protective order may be transferred under the emergency transfer provisions of this section.
- 2524.5 Whenever a Provider transfers, suspends, or terminates a client pursuant to the emergency provisions of this section, the Provider shall endeavor to provide the client with written notice, on a form prescribed by the Department.
- 2524.6 If it is not possible or safe to provide written notice at the time of the action, a subsequent written notice shall be provided to the client within fifteen (15) days, or, if the client's whereabouts are unknown, upon request within ninety (90) days of the emergency action taken.

- 2524.7 Written notice to the client of an emergency transfer, suspension, or termination shall include:
- (a) A clear statement of the emergency action;
 - (b) A clear and detailed statement of the factual basis for the emergency action, including the date or dates on which the basis or bases for the emergency action occurred;
 - (c) A reference to the statute or regulation pursuant to which the emergency action is being implemented;
 - (d) A clear and complete statement of the client's rights to appeal the emergency action through a fair hearing and administrative review, including deadlines for instituting the appeal;
 - (e) A statement that no client transferred, suspended, or terminated because of an imminent threat to health or safety shall have the right to request mediation of the action or to continue to receive shelter or supportive housing services without change pending appeal; and
 - (f) The name and contact information of the designated Department employee responsible for reviewing the proposed emergency action.
- 2524.8 The Provider shall immediately notify the Department of the emergency action by sending a copy of the written notice of emergency transfer, suspension, or termination to the designated Department employee. For purposes of this subsection, "immediately" shall mean as soon as reasonably possible after the incident. At a minimum, the Provider, in its notification to the Department, shall include:
- (a) The identity of the client who was transferred, suspended, or terminated on an emergency basis;
 - (b) The nature, date, and time of the emergency action taken by the Provider, including the name of the staff person present when the underlying incident occurred or who is otherwise most knowledgeable of the circumstances leading to the emergency action;
 - (c) The Provider staff member authorizing the emergency transfer, suspension, or termination; and
 - (d) The specific act or acts leading to the emergency transfer, suspension, or termination.

- 2524.9 The Department shall issue a written finding of whether the emergency action complies with the statutory requirements of D.C. Official Code § 4-754.38 within twenty-four (24) hours of receiving notification from a Provider of an emergency transfer, suspension, or termination.
- 2524.10 In reaching its finding, the Department may make a brief inquiry into the facts and circumstances of the emergency action, including interviews with any party, if additional details or clarifications are needed. The requirement that a decision be made within twenty-four (24) hours of receipt of the notice of emergency transfer, suspension, or termination, however, precludes a comprehensive fact-finding or inquiry.
- 2524.11 The Department shall issue its written finding on a Emergency Action Compliance Finding form and send it to the Provider and to the client or client representative, if requested, by facsimile, electronic mail, or other immediate form of transmission.
- 2524.12 The Provider shall deliver or attempt to deliver a copy of the Emergency Action Compliance Finding form to the client as soon as reasonably possible after receipt of the form from the Department. If the client's whereabouts are unknown, the Provider shall retain a copy of the Emergency Action Compliance Finding form and deliver it to the client if and when the opportunity arises.
- 2524.13 The Provider shall document in the client's file its delivery or its attempt at delivery of the Emergency Action Compliance Finding form to the client.
- 2524.14 If the Department makes a finding that the emergency action complies with D.C. Official Code § 4-754.38, the Provider's decision will stand, subject to appeal by the client through the fair hearing process.
- 2524.15 If the Department makes a finding that the emergency action does not comply with D.C. Official Code § 4-754.38, the Provider shall immediately reinstate the client's access to services. The Provider shall promptly notify the Department that the client was reinstated to services by completing the appropriate section of the Emergency Action Compliance Finding form and sending a copy to the Department as soon as practicable, but no later than twenty-four (24) hours after receipt of the Department's finding.
- 2524.16 The Provider shall make every reasonable effort to contact the client regarding reinstatement to enable the client to have shelter or housing at the earliest possible time.
- 2524.17 The client shall make every reasonable effort to stay in touch with the Provider pending the Department's finding, in order to be available to receive the Department's finding and notification of reinstatement, should the Department find the action is not in compliance.

2525 SYSTEMS TRANSFORMATION INITIATIVE – PURPOSE AND SCOPE

- 2525.1 The purpose of the Systems Transformation Initiative Program (“STI Program” or “STIP”) is to provide a structured program of supportive services along with rental assistance for less than or equal to two (2) years to prepare families for appropriate long-term permanent housing.
- 2525.2 The STI Program shall consist of unit identification assistance, rental subsidy, tenant rent contribution, assessment, and case management, as set forth in these subsections.
- 2525.3 Unless provided otherwise in sections 2525 through 2534, the STI Program shall be administered in accordance with the provisions of the shelter and supportive housing regulations found elsewhere in Chapter 25 of Title 29.
- 2525.4 The STI Program shall be subject to annual appropriations and the availability of funds.
- 2525.5 Nothing in these rules shall be construed to create an entitlement either direct or implied on the part of any individual or family to the STIP.

2526 SYSTEMS TRANSFORMATION INITIATIVE - ELIGIBILITY REQUIREMENTS

In addition to the general eligibility requirements set forth in subsection 2501.1, to be eligible for the STI Program the applicant shall meet the definition of a family, set forth in section 2599, and shall be willing and able to:

- (a) Enter into a lease and comply with the terms of such lease;
- (b) Contribute up to 30% of their adjusted annual income toward the cost for housing, pursuant to section 2529;
- (c) Accept a unit that meets the program unit criteria set forth in section 2532;
- (d) Actively participate in case management and meet the case management requirements, as set forth in section 2511, in order to transition to more permanent housing; and
- (e) Apply for all public benefits and housing assistance for which the applicant is eligible and as provided for in the applicant’s Service Plan, including applying for housing assistance from the District of Columbia Housing Authority.

2527 SYSTEMS TRANSFORMATION INITIATIVE - APPLICATION, ELIGIBILITY, AND PRIORITY DETERMINATION

2527.1 Application to the STI Program shall be made by a family at a family intake center. The application shall be in writing on a form prescribed by the Department, and shall be signed by the applicant and submitted to a central intake center.

2527.2 The family intake center shall determine eligibility for the STI Program pursuant to section 2526, and determine the priority for an appropriate referral to the STI Program based on the chronological order of application, and the following:

- (a) Residents of the Department's family hypothermia and temporary shelter programs and the Department's family transitional housing programs shall receive the highest priority. Within this priority group, the second prioritizing factor shall be the length of time residing in such programs.
- (b) Residents of non-DHS housing programs within the Continuum of Care shall receive the second highest priority. Within this priority group, the second prioritizing factor shall be the length of time residing in such programs.
- (c) Other significant relevant factors.
- (d) For purposes of this section, the chronological order in which applications are received shall be the date and time the intake center received the applicant's most recent signed application. The intake center staff shall document receipt of the signed application by date and time stamping or manually recording the date and time the signed application is received by the intake center.

2527.3 Upon determination of eligibility and priority determination, the central intake center shall provide the household with a Notice of Eligibility and Priority Determination for the Systems Transformation Initiative, which shall include:

- (a) A clear statement of the applicant's eligibility determination;
- (b) A clear statement of the applicant's priority determination pursuant to subsection 2527.2.
- (c) STIP Fact Sheet setting forth information about the STI Program; and
- (d) A clear and complete statement of the client's right to appeal the eligibility and priority determination through fair hearing and administrative review proceedings, including the appropriate deadlines for instituting the appeal.

2528 SYSTEMS TRANSFORMATION INITIATIVE – DETERMINATION OF THE APPLICANT HOUSEHOLD'S HOUSING COST CONTRIBUTION AND HOUSING ASSISTANCE

- 2528.1 When an applicant's name reaches the top of the list, the intake center shall send the applicant a letter informing the applicant that they are next on the list and requesting the applicant to come into the intake center to complete the applicant's housing contribution determination.
- 2528.2 To determine the family's housing contribution, the applicant may be required to provide or update the following information:
- (a) Employment status and history;
 - (b) Income and source of income, including public benefits;
 - (c) Assets; and
 - (d) Any other information relevant to determining security deposit, rental assistance, and moving and move-in expenses needed to participate in the STI Program.
- 2528.3 Upon completion of the applicant's housing contribution determination, the central intake center shall provide the household with a Notice of Housing Assistance Determination, which shall include:
- (a) A clear statement of the maximum rental costs for which the family qualifies pursuant to the HUD Fair Market Rent standards for their family size;
 - (b) A clear statement of the applicant's housing contribution for which they will be responsible and the computation of how the household's housing contribution costs was determined;
 - (c) A clear and detailed statement of the amount of the STIP rental assistance;
 - (d) A clear and detailed statement of how the utilities will be paid, and any responsibility that the applicant will have for utilities; and
 - (f) A clear and complete statement of the client's right to a reconsideration of the determination of the household's housing cost contribution by the Department or the Department's designee if such reconsideration is requested within 10 days of receipt of the Notice of Housing Assistance Determination, including the appropriate deadlines for instituting the request for reconsideration.
- 2529 **SYSTEMS TRANSFORMATION INITIATIVE – TENANT HOUSING COST CONTRIBUTION AND PROGRAM HOUSING COST ASSISTANCE**

- 2529.1 Each household shall contribute toward the cost for housing thirty percent (30%) of their adjusted annual income, determined in accordance with the Housing Choice Voucher Program (HCVP) regulations found at 14 DCMR 6200. The STI Program shall pay the difference in the cost of housing.
- 2529.2 The STI Program shall pay the difference between the household's housing cost contribution and the cost of housing. For purposes of this section, the cost of housing shall include the cost of utilities, the relative share of which shall be determined as set forth in the DCHA Housing Choice Voucher Program regulations found at 14 DCMR 6200. Subject to the availability of funds, the Department may pay an increased share of rent or utilities, when the housing cost exceeds the HUD Fair Market rent standards.
- 2529.3 To ensure that a security deposit is not a barrier to participation in the STI Program, applicants shall be referred to and assisted in accessing available community and public resources to obtain the necessary security deposit. Only as a last resort, the STI Program may provide funds to meet a gap in resources necessary to meet a reasonable security deposit, based on demonstrated need by the client and exhaustion of other community-based and public resources, and availability of STIP funding.
- 2529.4 To ensure that moving expenses and move-in expenses, such as basic furniture and household items, are not a barrier to participation in the STI Program, applicants shall be referred to and assisted in accessing available community and public resources to obtain these services. Only as a last resort, the STI Program may provide funds to meet a gap in resources necessary to meet reasonable moving and move-in expenses, based on demonstrated need by the client and exhaustion of other community-based and public resources, and availability of STIP funding.
- 2529.5 Income and asset information provided by participants may be subject to verification.

2530 ANNUAL RECALCULATION OF TENANT RENT CONTRIBUTION

- 2530.1 The STI Program shall examine and recalculate annually each household's housing cost contribution to ensure that participating households are paying the appropriate tenant housing cost contribution.
- 2530.2 For each household, the annual recalculation date shall be twelve (12) months after the date of the initial housing placement. The STI Program may adjust the annual recalculation date in order to schedule some or all household annual recalculations at the same time.
- 2530.3 Each household is responsible for providing to the STI Program the appropriate documents confirming income, family composition or other information requested by the Program during an annual recalculation.

- 2530.4 If the STI Program determines that a change in the housing cost assistance is required as a result of an annual recalculation, the Provider shall give the household a written Notice of Change in Household Rent Contribution. This written notice shall include:
- (a) A clear statement of the factual basis of the change in the household's housing cost contribution;
 - (b) A clear and detailed statement of the computation of the household's new housing cost contribution;
 - (c) A clear and detailed statement of the computation of the STI Program's housing cost assistance;
 - (d) A clear statement of the effective date of the new household housing cost contribution;
 - (e) A reference to the regulation or policy pursuant to which the change was made; and
 - (f) A clear and complete statement of the client's right to a reconsideration of the change of household housing cost contribution by the Department or the Department's designee if such reconsideration is requested within 10 days of receipt of the Notice, including the appropriate deadlines for instituting the request for reconsideration.
- 2530.5 If a recalculation of tenant housing cost contribution results in a decrease in the amount of the tenant contribution and an increase in the STIP assistance, the change shall be effective the first day of the month (or the next day that rent is due) following the completion of the recalculation.
- 2530.6 If a recalculation of tenant rent contribution results in an increase in the amount of the tenant contribution and a decrease in the STIP rental assistance, the change shall be effective thirty (30) calendars days after written notice of the change in assistance is provided to the household.

2531 REPORTING CHANGE IN HOUSEHOLD INCOME

- 2531.1 It shall be the responsibility of each participating household to report to their STIP Provider case manager, in writing, any change in the household's monthly income as soon as the change occurs.
- 2531.2 Upon written notification by the household of a change in the household's annual income, the Provider shall determine if there is a need to recalculate the amount of the household's housing cost contribution, based on the following:
- (a) If the household is reporting a decrease in monthly income of \$50.00 or more and the annual recalculation is not in progress, an interim recalculation shall be conducted;
 - (b) If the household is reporting an increase in monthly income of \$100.00 or more, an interim recertification shall be conducted; however, if the household's annual recalculation is in progress, or is scheduled to begin within ninety (90) days, no interim recertification shall be conducted, but the time of the scheduled annual recalculation may be advanced.
- 2531.3 The effective date of a change in the amount of the rental assistance as a result of an interim recalculation shall be the same as for an annual recalculation as set forth in subsections 2530.5 and 2530.6.
- 2531.4 A person's intentional failure to accurately report income or assets, or changes in income or assets required under sections 2528 through 2531 that results in greater assistance than the household would otherwise be entitled to, may be subject to penalties, including termination pursuant to section 2523, and/or criminal or civil prosecution under D.C. Official Code § 4-218.01 if such intentional failure to report is substantiated.

2532 UNIT IDENTIFICATION

- 2532.1 Participation in the STI Program is conditional on accepting a unit that passes a housing inspection and meets Fair Market Rent standards established for the District of Columbia by the Department of Housing and Urban Development.
- 2532.2 An applicant shall be assigned one unit in the Program's unit inventory list. An applicant may also find a unit of their choice, except that the unit shall pass a housing inspection and shall not exceed HUD Fair Market Rent standards for their family size.
- 2532.3 To facilitate timely unit identification and entry into the STI Program, an applicant shall:

- (a) Make a reasonable effort to meet with the Provider's representative in a timely manner to view a unit. Refusal to meet with the Provider's representative three times without good cause shall be considered not making a reasonable effort.
- (b) After viewing a unit, submit a timely and complete application to the landlord.
- (c) Accept a unit that meets the HUD Fair Market Rent standards for their family size.

2532.4 Refusal to complete any of the requirements set forth in section 2532.3 shall result in the applicant's loss of the apartment unit and placement at the bottom of the waiting list.

2532.5 A participant in the STI Program may move to an alternate unit at any time, as long as the participant:

- (a) Exits the existing lease with the landlord according to the terms of the lease or receives the landlord's written approval to exit the lease without financial cost to the STI Program;
- (b) Identifies an alternate unit that passes a housing inspection and does not exceed the HUD Fair Market Rent standards for their family size;
- (c) Submits an application to the landlord within the necessary timeframe; and
- (d) Accepts the alternate unit and provides the STI Program with all necessary information regarding the new unit.

2532.6 If requested by the participant, the STI Program will assist the participant identify an alternate unit that better meets their needs, to the extent possible considering the availability of units within the STI Program inventory and the needs of new applicants.

2533 CASE MANAGEMENT

Participants in the STI Program shall actively participate in case management as set forth in section 2511, including development of a Service Plan as described in section 2511.2. Participants that require only a minimal level of case management shall consent to and participate in a monthly check-in with the case manager.

2534 EXTENSIONS FOR GOOD CAUSE AFTER TWO YEARS HAS EXPIRED

2534.1 Participants may be eligible for extensions beyond the two-year STI Program timeframe under the following circumstances:

- (a) The family has completed their Service Plan and is still financially unable to afford the housing unit without assistance;
- (b) The family has not completed their Service Plan based on good cause circumstances, an extension will assist the family to complete the services plan, and the family is still financially unable to afford the housing unit without assistance; or
- (c) The family has not completed their Service Plan and an extension is not sufficient to assist the family to complete the Service Plan and transfer to another placement is the most appropriate placement based on the client's current Service Plan, but a transfer placement is not currently available.

2534.2 The length of all extensions shall be at the discretion of the STI Program, based on the client's Service Plan, the family's individual circumstances, and availability of resources.

2535 THE DEPARTMENT'S PERMANENT SUPPORTIVE HOUSING INITIATIVE – PURPOSE AND SCOPE

2535.1 The purpose of the Department's Permanent Supportive Housing Program ("PSH Program") is to provide a compassionate and cost effective strategy to solve homelessness for the hardest to serve and most vulnerable individuals and families, living either on the street or in a shelter, using a Housing First model.

2535.2 The PSH Program consists of an assessment of vulnerability, unit identification assistance, housing subsidy, participant housing cost contribution, needs assessment, and case management.

2535.3 Unless provided otherwise in sections 2535 through 2542, the PSH Program shall be administered in accordance with the provisions of the shelter and supportive housing regulations found elsewhere in Chapter 25 of Title 29.

2535.4 The PSH Program shall be subject to annual appropriations and the availability of funds.

2535.5 Nothing in these rules shall be construed to create an entitlement either direct or implied on the part of any individual or family to the PSH Program.

2536 PERMANENT SUPPORTIVE HOUSING PROGRAM – ELIGIBILITY AND REFERRAL

2536.1 In addition to the general eligibility requirements set forth in subsection 2501 an individual or family shall:

- (a) Have been homeless:
 - (1) For one year or more; or
 - (2) On multiple occasions interrupted by stays in other temporary settings such as a hospital, jail, or prison; and
- (c) Have one or more chronic health conditions that are at least episodically disabling including mental illness, substance use, cirrhosis, end stage renal disease, or cold weather injuries; or
- (d) Have one or more other substantial barriers to housing stability, such as domestic violence, trauma, or a history of out-of-home placements, or extensive involvement with the District of Columbia Child and Family Services Agency; and
- (e) For Family Permanent Supportive Housing Programs meet the definition of “family” as set forth in section 2599.

2536.2 The PSH Program, through the Department or its designee, shall conduct, on a periodic basis, subject to funding and unit availability, assessments designed to measure the vulnerability of homeless persons living on the street and in shelters. Any person living in a shelter or on the street may ask to take a vulnerability assessment by inquiring of a PSH Program staff person. All shelters shall have an information sheet to provide interested persons with how to contact the PSH Program. Persons may also be identified by any service Provider, the PSH Program, a Department employee, outreach worker, or others, and asked if the PSH Program may conduct a vulnerability assessment of the individual or family.

2536.3 Referral for available placements in the PSH Program shall be prioritized based on an individual’s or family’s score on a vulnerability assessment administered by the PSH Program. The highest score shall receive the next available referral. Information provided by the subject of a vulnerability assessment may be subject to verification by the PSH Program.

2536.4 In addition to the criteria set forth in subsection 2536.3, placements may be further prioritized based on:

- (a) Length of homelessness;

- (b) The chronological order of an individual's or family's vulnerability assessment;
- (c) Availability of appropriate sized units based on household size;
- (d) Availability of funding for particular housing subsidy programs for which an individual or family may be eligible; and
- (e) Availability of funding for the PSH Program.

2536.5 In addition to a vulnerability assessment, an individual or family shall be required to complete an application on a form prescribed by the Department prior to placement in the PSH Program; except that if the PSH Program is unable to obtain certain information from a person referred for placement, the PSH Program shall have the discretion to make the placement with the available information, and endeavor to complete the application post-placement to the extent possible.

2536.6 If an interested individual or family submits an application and completes a vulnerability assessment administered by the PSH Program, but is found not to be eligible, the Department or its designee shall provide the applicant with a Notice of Denial of Eligibility, which shall include:

- (a) A clear statement of the applicant's eligibility determination;
- (b) A clear and detailed statement of the factual basis of the denial, including a reference to the eligibility criteria set forth in subsections 2501 or 2536.1 that has not been met; and
- (c) A clear and complete statement of the client's right to appeal the denial of eligibility through a fair hearing and administrative review including the appropriate deadlines for instituting the appeal.

2536.7 In addition to the provisions for denial of eligibility in section 2536.6, an individual or family who has begun the placement process but who has not yet been housed and is determined to be ineligible for the PSH Program, shall be issued a Notice of Denial of Eligibility. Such individual or family shall not have a right to continue the placement process during the appeal.

2536.8 If an individual or family issued a Notice of Denial of Eligibility pursuant to 2536.7 is successful in their appeal, the individual or family shall be reinstated in the placement process for the next available uncommitted housing placement. Should there be no uncommitted housing placement available, the individual or family shall be given priority for the next future available housing placement. Uncommitted housing placement shall have the meaning set forth in 2542.7.

2536.9 An individual or family that is found to be ineligible for the PSH Program may reapply at any time.

2537 PSH PROGRAM REFERRAL PROCESS

2537.1 When the Department or its designee has available placements in the PSH Program, the Department or its designee shall review all vulnerability assessments of individuals and families not previously placed in the PSH Program or other permanent supportive housing program to determine which individuals and families have priority for the available placements.

2537.2 When the Department or its designee receives funding for a significant number of new placements, the Department shall publish in the D.C. Register a notice of the new number of placements and provide notice of the expected review period for the Department to conduct vulnerability assessments to determine priority for those placements. Such notice shall be published so that a minimum of three weeks is available for interested persons to complete a vulnerability assessment and be considered for those placements.

2537.3 Upon identifying those individuals and families with the highest vulnerability scores, and applying any applicable prioritizing factors pursuant to 2536.4, the Department or its designee shall seek to locate the identified persons through service Providers, outreach workers, Homeless Management Information System (HMIS) data, or other available means.

2537.4 Upon location of the persons identified pursuant to subsection 2537.2, the Department or its designee shall assign a case manager to the individual or family to assist in completing the placement.

2537.5 If the individual or family cannot be located, the Department or its designee shall document efforts to locate the person and shall retain the vulnerability assessment for a future PSH Program referral.

2537.6 If the Department or its designee identifies but is unable to locate the individual or family for two distinct referral groups, the Department or its designee shall remove the applicable vulnerability assessment from the pool of assessments available for referral.

2537.7 Any individual or family whose assessment is removed pursuant to subsection 2537.56 may retake a vulnerability assessment and be considered for available or future PSH referrals at any time.

2538 PSH PROGRAM ASSESSMENT AND CASE MANAGEMENT

2538.1 The PSH Program shall offer participants a comprehensive needs assessment and case management.

2538.2 Participants shall not be required to participate in the needs assessment or case management as a condition of receipt of the housing assistance or other PSH services, except that the PSH Program may require reasonable minimal case management requirements as set forth in the PSH Program Rules, in order to ensure the PSH Program provides reasonable oversight of its program and participants.

2539 PSH PROGRAM HOUSING ASSISTANCE

2539.1 Subject to applicable income limitations or other eligibility requirements, an individual or family referred to the PSH Program shall be provided a housing subsidy.

2539.2 The PSH Program shall, at its discretion, refer the individual or family to a housing subsidy program based on preliminary eligibility screening of the individual or family, taking into account the availability of slots in particular programs and, to the extent feasible, the individual's or family's preferences and needs.

2539.3 In determining the housing subsidy program referral pursuant to section 2539.2, the Department or its designee shall first endeavor to place PSH Program participants in non-Department funded programs.

2539.4 Housing subsidy programs to which an individual or family may be referred, subject to sections 2539.2 and 2539.3, depending on availability of funding and placements, include:

- (a) The District of Columbia Housing Authority's (DCHA) Housing Choice Voucher Program's (HCVP) limited local preference for permanent supportive housing for chronically homeless individuals and families;
- (b) Other available DCHA public housing or housing voucher programs, including the Local Rent Supplement Program (LRSP);
- (c) Other District funded housing or rental assistance programs; or
- (d) Any other housing or rental assistance program.

2539.5 PSH Program participants receiving a DCHA voucher, public housing, or rental assistance shall follow the rules, policies, and procedures of the applicable DCHA program.

2539.6 PSH Program participants receiving a non-Department but District funded housing subsidy shall follow the applicable rules of the District program.

2539.7 PSH Program participants receiving a Department funded housing subsidy shall follow rules set forth in sections 2535 through 2542, or otherwise set forth in the shelter and supportive housing rules in Chapter 25 of Title 29 as applicable.

2539.8 The Department reserves the right to transfer the rental subsidy of a PSH Program participant receiving a Department funded subsidy to a non-Department subsidy program at any time, provided that such transfer does not result in a loss of housing for the PSH Program participant.

2540 THE DEPARTMENT'S HOUSING SUBSIDY PROGRAM FOR PSH PROGRAM PARTICIPANTS

2540.1 The Department's Housing Subsidy Program for PSH Program participants (PSH Housing Program) shall consist of rental and utility assistance (hereinafter "housing cost" or "housing subsidy"), household housing cost contribution, unit identification assistance, and unit inspection.

2540.2 Each participant household shall contribute toward their housing cost in the amount of thirty percent (30%) of their adjusted annual income, as determined in accordance with the DCHA Housing Choice Voucher Program regulations found at 14 DCMR 6200.

2540.3 The PSH Housing Program shall pay the difference between the household's housing cost contribution and the cost of housing. For purposes of this section, the cost of housing shall include the cost of utilities, the relative share of which shall be determined as set forth in the DCHA Housing Choice Voucher Program regulations found at 14 DCMR 6200.

2540.4 To determine the individual's or family's housing cost contribution, the PSH Program participant may be required to provide or update the following information:

- (a) Employment status and history;
- (b) Income and source of income, including public benefits;
- (c) Assets; and
- (d) Any other information relevant to determining security deposit, rental assistance, moving, move-in, or other applicable expenses needed to obtain housing.

2540.5 Upon completion of the household's housing contribution determination, the PSH Housing Program shall provide the household with a Notice of Housing Assistance Determination, which shall include:

- (a) A clear statement of the maximum rental costs for which the household qualifies pursuant to the United States Department of Housing and Urban Development (HUD) Fair Market Rent standards for their household size;
- (b) A clear statement of the household's housing cost contribution for which they will be responsible and the computation of how the household's housing cost contribution was determined;
- (c) A clear and detailed statement of the amount the PSH Housing Program shall provide in housing assistance;
- (d) A clear and detailed statement of how the utilities will be paid, and any responsibility that the household will have for utilities; and
- (e) A clear and complete statement of the household's right to a reconsideration of the determination of the household's housing cost contribution by the Department or the Department's designee, including the appropriate deadlines for instituting the request for reconsideration.

2541**REPORTING CHANGE IN HOUSEHOLD INCOME**

It shall be the responsibility of each participating household to report to the PSH Program, in writing, any change in the household's annual income as soon as the change occurs. Any resulting effect of a change in income on the participating household's housing cost contribution shall be made in accordance with the rules, policies, and procedures of the applicable housing subsidy. PSH Program participants receiving a Department funded rental subsidy shall be governed by the provisions of section 2531 of this Chapter.

2542**UNIT IDENTIFICATION AND ACCEPTANCE**

- 2542.1 Participants in the PSH Housing Program shall accept a unit that passes a housing inspection and meets Fair Market Rent standards established for the District of Columbia by HUD.
- 2542.2 A PSH Program participant shall be assigned one unit in the available unit inventory list. The Program shall consider the participant's stated needs and preferences when assigning the unit to the extent possible considering the PSH Program inventory and the housing market. Participants may also find a unit of their choice, as long as such unit passes a housing inspection required by the PSH Program and does not exceed HUD Fair Market Rent standards for their household size.
- 2542.3 To facilitate timely unit identification and entry into the PSH Housing Program, the participant shall:

- (a) Make a reasonable effort to complete the housing subsidy program's application or placement requirements. For purposes of this subsection, failure to take tangible steps towards obtaining or supplying items necessary to complete the requirements of the program may be considered not making a reasonable effort;
- (b) Make a reasonable effort to meet with the PSH Program's representative in a timely manner to view a unit. For purposes of this subsection, refusal to meet with the Provider's representative three times without good cause shall be considered not making a reasonable effort;
- (c) After viewing a unit, assist the PSH Housing Program to submit a timely and complete application to the landlord; and
- (d) Accept a unit that meets the HUD Fair Market Rent standards for their household size.

2542.4 If an individual or family fails to make a reasonable effort to complete any of the requirements set forth in 2542.3, the PSH Program may discontinue the placement process for that individual or family.

2542.5 The PSH Program shall give written and oral notice to clients of discontinuation of the placement process at least fifteen (15) days prior to the effective date of such discontinuation.

2542.6 The PSH Program's written notice to an individual or family of discontinuation of the placement process shall be on a form prescribed by the Department and shall include:

- (a) A clear statement of the effective date on which the placement process will be discontinued;
- (b) A clear and detailed statement of the factual basis for the determination that the individual or family has failed to make reasonable efforts to meet the requirements of section 2542.3, including the date or dates upon which the determination is based;
- (c) A reference to the statute, regulation, or Program Rule pursuant to which the discontinuation is based;
- (d) A statement that a reasonable effort by the individual or family to meet the requirements of section 2542.3 prior to the effective date of discontinuation of the placement process shall result in a withdrawal by the Program of the Notice of Discontinuation; and

- (e) A clear and complete statement of the client's rights to appeal the discontinuation through a fair hearing and administrative review, including deadlines for instituting the appeal.

2542.6 An individual or family for whom the PSH Program has discontinued the placement process pursuant to section 2542.4 shall not have a right to continue the placement process during the appeal.

2542.7 An individual or family for whom the PSH Program has discontinued the placement process pursuant to section 2542.4 may resume the placement process at any time if ready to accept a unit and the Program has an uncommitted housing placement available. For purposes of this section, an available uncommitted housing placement means that the Program has an available subsidy and is not currently working with an individual or family for whom the subsidy is allocated.

2542.8 The PSH Program shall not be obligated to provide placement services to any individual or family issued two or more Notices of Discontinuation of Placement Services.

2542.9 The PSH Housing Program shall assist any participant, at any time, to move to an alternate unit as long as the PSH Program or the participant is able to ensure that the participant:

- (a) Exits the existing lease with the landlord according to the terms of the lease or receives the landlord's written approval to exit the lease without financial cost to the Program;
- (b) Identifies an alternate unit that passes a housing inspection and does not exceed the HUD Fair Market Rent standards for their household size;
- (c) Submits an application to the landlord within the necessary timeframe; and
- (d) Accepts the alternate unit and provides the PSH Program with all necessary information regarding the new unit.

2542.10 Once housed, if requested by the participant, the PSH Housing Program may assist the participant to identify an alternate unit that better meets the participant's needs, to the extent possible, considering the availability of units within the PSH Program housing inventory and considering the needs of new applicants.

2543 OFFICE OF SHELTER MONITORING

2543.1 The Office of Shelter Monitoring ("Office" or "OSM") shall monitor and evaluate the services delivered by all programs covered by the Act.

- 2543.2 For shelters and supportive housing programs, the Office shall monitor the conditions, services, and practices, evaluating, to the extent applicable, the:
- (a) Health, safety, and cleanliness of shelters and site-based supportive housing program. For programs with individual, scattered site housing, the quality of the housing offered;
 - (b) Policies, practices, and Program Rules;
 - (c) Accessibility of program to clients with disabilities;
 - (d) Appropriateness of facility for families;
 - (e) Respect for applicable client rights set forth in sections 2512 and 2513;
 - (f) Compliance with applicable Provider standards set forth in sections 2515 through 2519;
 - (g) Comments of clients and program staff;
 - (h) Ability of the program to facilitate transition from homelessness to permanent housing; and
 - (i) Any other information deemed appropriate.
- 2543.3 For each program required to be monitored the Office shall conduct an inspection on the premises at least once during each calendar year. The Office may conduct more than one inspection per year per program and may conduct inspections on an announced or unannounced basis.
- 2543.4 For each monitoring inspection, the Office shall issue to the Provider a monitoring report summarizing the findings of the inspection.
- 2543.5 For purposes of this section, if the Provider is a subcontractor of a District contractor, all written communications and reports from the Office to the Provider shall also be provided to the prime contractor. Likewise, any written communication from the Provider to the Office shall also be provided to the prime contractor.
- 2543.6 The monitoring report shall provide a comprehensive assessment of the program, including identifying areas of excellence, competence, and deficiencies. For identified deficiencies the report shall also include required corrective actions and required timeframe for completion of corrective action.
- 2543.7 Generally, Providers shall have up to seven days from the date of the monitoring report to correct health and safety deficiencies, except that the Office may require

more immediate action for deficiencies that present an immediate danger to residents, staff, or the public. For purposes of this subsection, health and safety shall include deficiencies under federal disability law, including the Americans with Disabilities Act, as amended, and any success legislation, unless otherwise noted by the Office. For non-health or safety deficiencies, Providers shall have thirty days from the date of the monitoring report to correct the deficiency, unless otherwise noted in the report.

- 2543.8 The Provider shall correct the deficiencies noted, and submit documentation to the Office that such corrective actions were taken within the required timeframes.
- 2543.9 If the Provider is unable to complete a corrective action within the required timeframes, the Provider shall submit to the Office the reason for not meeting the required timeframe along with a proposed corrective action plan with reasonable deadlines that will correct the deficiencies in as timely a manner as possible. The proposed corrective action plan shall be submitted to the Office by the deadline given for the corrective action. The corrective action plan will be considered accepted by the Office, unless the Office notifies the Provider otherwise within five business days of receiving the proposed corrective action plan.
- 2543.10 Based on the corrective action plan, the Provider shall submit follow-up documentation to the Office that the required corrective actions were taken within the projected timeframes, or why such work has not been completed in a timely manner and the Provider's proposed solution.
- 2543.11 If the Office determines that the Provider has not satisfactorily corrected the deficiencies set forth in the monitoring report, either as required by the monitoring report or the corrective action plan submitted by the Provider, the Office shall notify the Provider of the remaining deficiencies and the corrective action that is required, as well as any new deadlines for correcting deficiencies.
- 2543.12 At any time in the monitoring process, and particularly where the Provider fails to timely correct deficiencies outlined in a monitoring report, the Office may pursue additional remedies, including requiring acceptance of technical assistance, training, increasing the number of announced or unannounced visits by Office monitors, or other applicable remedies necessary to ensure Provider compliance.
- 2543.13 If the Provider is a direct contractor with the District, and the Office determines that the Provider has not satisfied the deficiencies in the monitoring report, the Office shall notify the Contracting Officer's Technical Representative (COTR) of the Provider's non-compliance.
- 2543.14 If the Provider is a subcontractor of a District contractor and the Office determines that the Provider has not satisfied the deficiencies in the monitoring report, the Office, after providing adequate and timely notice to the prime contractor in accordance with the timeframes established in the contract to correct the

deficiencies, shall notify the COTR that the prime contractor has failed to ensure that its subcontractor is in compliance.

- 2543.15 Once the COTR receives notice that a Provider, or the prime contractor, is non-compliant with the contract, the COTR shall notify the Department's Contracting Officer in writing of the prime contractor's violation of the terms and conditions of the contract and shall develop a proposed notice to cure for review and approval by the Contracting Officer. The Contracting Officer shall proceed to send the notice to cure to the contractor in accordance with 27 DCMR 3711 – 3712, and any other applicable laws, policies, and regulations.
- 2543.16 If the contractor, whether the Provider or the prime contractor, fails to satisfy the terms of the notice to cure, the Contracting Officer may proceed with any remedy available under 27 DCMR 3711 – 3712, and any other applicable laws, policies, and regulations.
- 2543.17 The Office shall create and utilize a systematic tracking system to track the monitoring reports, deficiencies found, corrective action taken, and the timeframes within which deficiencies were corrected.
- 2543.18 The Office shall make available, upon request, each annual monitoring inspection report to clients of the program and members of the Interagency Council on Homelessness.
- 2543.19 In all activities conducted by the Office pursuant to this section, and in any reports released pursuant to subsection 2543.18, the Office shall ensure confidential treatment of the personal, social, legal, financial, educational, and medical records and information related to a client or any member of a client's family, whether obtained from the client or from any other source, consistent with confidentiality requirements of District and federal law.

2544 COMPLAINTS

- 2544.1 The Office of Shelter Monitoring shall receive complaints about programs, facilities, and services provided within the Continuum of Care and shall investigate programs alleged to be out of compliance with the applicable standards set forth in sections 2515-2519 or with other requirements or agreements.
- 2544.2 Clients are encouraged to take advantage of Provider grievance procedures to resolve concerns, complaints, and conflicts, where possible. Clients are not required, however, to pursue the Provider grievance procedure before contacting the Office of Shelter Monitoring regarding a complaint.
- 2544.3 When the Office of Shelter Monitoring receives a complaint regarding alleged violations of Title II of the Americans with Disabilities Act (ADA) 42 U.S.C.

§§ 12131 - 12134, and the U.S. Attorney General's implementing regulation, 28 C.F.R. Part 35., or other federal or local laws prohibiting discrimination on the basis of disability, the Office of Shelter Monitoring shall log in the complaint, refer the complaint to the Department's ADA Coordinator, inform the complainant that the complaint has been referred to the ADA Coordinator and when the complainant can expect to hear from that person, and ensure that the complaint has been appropriately addressed by the ADA Coordinator by attaching the ADA Coordinator's Findings or Report to the complaint before closing the complaint in the Office's log.

- 2544.4 The Office of Shelter Monitoring shall conduct all investigations into complaints in a timely manner, taking into account the severity of the matter that is the subject of the complaint. The Office shall provide a response to the complainant in a timely manner of the findings of the investigation, if the complainant has provided the Office with contact information.
- 2544.5 The Office shall post in prominent places at each shelter site its contact information, its procedures for accepting complaints, and procedures for requesting mediation or a fair hearing. The Office shall provide each program and shelter site with the OSM complaint form with the Office's contact information for use by clients. Providers shall make the OSM complaint form readily available to clients.
- 2544.6 Any person may file a complaint with the Office in any form, including by telephone, electronic mail, in person, or by written communication. Complaints may be made anonymously.
- 2544.7 The Office shall maintain a record of complaints received, the resolution of each complaint, and the response provided to complainant.
- 2544.8 The Office shall make available, upon request, a copy of the findings of any investigation conducted under this section to the Provider of the program and members of the Interagency Council on Homelessness.
- 2544.9 In all activities conducted by the Office pursuant to this section, and in any findings released pursuant to subsection 2544.8, the Office shall ensure confidential treatment of the personal, social, legal, financial, educational, and medical records and information related to a client or any member of a client's family, whether obtained from the client or from any other source, consistent with confidentiality requirements of District and federal law.
- 2544.10 In seeking to resolve complaints, the Office shall encourage appropriate use of mediation, Provider grievance processes, and the fair hearing process, as appropriate.
- 2544.11 The Office shall not disclose the identity of any person who brings a complaint or provides information to the Office without the person's consent, unless the Office

determines that disclosure is unavoidable or necessary to further the ends of an inspection or investigation.

2545 REASONABLE MODIFICATIONS – PURPOSE AND SCOPE

2545.1 The provisions of this chapter provide procedures for the prompt and equitable resolution of complaints by customers or prospective customers of shelter or supportive housing who allege any action prohibited by Title II of the Americans with Disabilities Act of 1990 (ADA), approved July 26, 1990 (104 Stat. 327; 42 U.S.C. § 12101 *et seq.*), as required by 28 C.F.R. § 35.107(b).

2545.2 These procedures apply to all services, programs, and activities in shelter and supportive housing program provided by the Department, whether such services, programs, or activities are provided directly by the Department or by the Department through contract or grant.

2545.3 Pursuant to Title II of the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the shelter and supportive housing services, programs, or activities of the Department, or be subjected to discrimination by the Department, its contractors or grantees.

2546 REASONABLE MODIFICATION POLICY

2546.1 If necessary for a qualified person with a disability to have access to covered services, programs, or activities, the Department, its contractors and grantees shall provide reasonable modification of shelter and supportive housing policies, practices, or procedures to avoid discrimination unless the responsible entity demonstrates that the modification would fundamentally alter the nature of the services or impose an undue hardship on the operation of the program or activity.

2546.2 For purposes of this chapter, a reasonable modification is a change, modification, alteration, or adaptation in a policy, procedure, practice, program, or facility that provides a person with a disability the opportunity to participate in, or benefit from, a service, program, or activity.

2546.3 To receive a reasonable modification, an applicant or recipient of services or an authorized representative may make a request to the Provider of services, according to that Provider's reasonable modification policy and procedures.

2546.4 An applicant or recipient of services, or an authorized representative, has the right to file a complaint with the Department as set forth in section 2547. In lieu of, or in addition to filing a complaint with the ADA Coordinator, an applicant or recipient of services, or authorized representative has the right to file a grievance directly with the Provider, to appeal a denial of a reasonable modification request through

the fair hearing process set forth in section 2550, or pursue any other remedies available to the person through any other Federal or District law.

2547 FILING A COMPLAINT WITH THE ADA COORDINATOR

2547.1 Any qualified individual with a disability or authorized representative may file a complaint with the Department alleging noncompliance with the provisions of Title II of the ADA or the federal regulation promulgated thereunder in the provision of shelter or supportive housing covered by this chapter.

2547.2 If applicable, clients are encouraged to make a reasonable modification request to the shelter or supportive housing Provider and allow a reasonable time for the Provider to respond before filing a complaint under this section.

2547.3 A client may file a complaint with the Department's ADA Coordinator at the following address:

ADA Coordinator
Department of Human Services
Office of the Director
64 New York Avenue, NE,
6th Floor
Washington, DC 20002
Telephone: 202-671-4200
FAX: 202-671-0180
TTY: 202-671-4495

2547.4 A complaint shall be filed as soon as possible but no later than one hundred and eighty days (180) days after the complainant becomes aware of the alleged violation.

2547.5 The complaint shall be filed with the ADA Coordinator in writing or in another accessible format suitable to the complainant, and shall include:

- (a) The complainant's name and address;
- (b) The nature of the individual's disability;
- (c) A description of the alleged noncompliance in sufficient detail to inform the Department of the nature of the allegation, including dates and place of the alleged violation and names of persons involved, if known;
- (d) If the complaint concerns a reasonable modification request that was made to a Provider but not resolved to the satisfaction of the client, the complaint shall include information regarding the reasonable modification request, including date and nature of request, and response, if any, from the Provider;

- (e) The modification, accommodation, or remedy desired;
- (f) The name and address of the person's authorized representative, if any; and
- (g) The signature of the complainant or complainant's authorized representative.

2547.6 If the complaint is not in writing, the ADA coordinator shall transcribe or otherwise reduce the complaint to writing upon receipt of the complaint.

2547.7 Any person other than the ADA Coordinator who receives a complaint alleging a violation of the ADA shall submit the complaint to the ADA Coordinator within three (3) business days of receipt.

2548 ADA COMPLAINT AND INVESTIGATION PROCEDURES

2548.1 Upon receipt of a complaint, the ADA Coordinator or designee shall send a notice and make best efforts to personally communicate with the complainant and the entity that is alleged to be in noncompliance within five (5) business days of its receipt. If the complaint is against a subcontractor or subgrantee of a Department contractor or grantee, the ADA Coordinator shall also send a notice to the contractor or grantee within the same time period.

2548.2 The complaint shall be reviewed by the ADA Coordinator to determine the appropriate method of resolution as follows:

- (a) If the complainant is making a reasonable modification request rather than a complaint, but has not yet made the request to the appropriate Provider, the ADA Coordinator may refer the complainant's reasonable modification request to the Provider for resolution, except when the complainant has expressed a reason for not first making the request of the Provider and that reason is the basis of the complaint. The ADA Coordinator shall promptly notify both the complainant and the Provider of the referral and inform the complainant and the Provider that the ADA Coordinator will consider the matter resolved unless the complainant files a new complaint. The Department shall provide monitoring of the resolution of the reasonable modification request, as appropriate and required.
- (b) If the complainant has requested a reasonable modification, but the complainant is not satisfied with the Provider's response, the ADA Coordinator shall ascertain the relevant facts and work with the complainant and the Provider in an attempt to reach a solution acceptable to both parties. If the Provider is a subcontractor or subgrantee of a Department contractor or grantee, the ADA Coordinator will work through the Department's contractor or grantee, to the extent possible.

- (c) For all other ADA complaints, or if the complainant and the Provider are not able to reach a resolution of a reasonable modification request, the ADA Coordinator shall review the complaint, determine the appropriate means of resolution, including referral to the Department's Office of Program Monitoring and Investigation (OPRMI) for an investigation of contractor's alleged noncompliance with the ADA. The ADA Coordinator shall notify the Administrator of the Department's Family Services Administration of each referral of an ADA Complaint to OPRMI.

- 2548.3 The ADA Coordinator shall make best efforts to reach a resolution of the complaint, and issue findings to the complainant, within 45 days, except that for complaints referred for investigation to OPRMI the time frame shall be as set forth in 2548.4.
- 2548.4 For complaints referred to OPRMI, OPRMI shall complete the investigation and issue a report within thirty (30) days of receipt of the referral. The ADA Coordinator and the Director or the Director's designee shall review the OPRMI report and issue findings within fifteen (15) business days of receipt of the report.
- 2548.5 Findings shall be sent to the complainant, the complainant's representative, if any, the Provider, and the Administrator of the Department's Family Services Administration. If the Provider is a subcontractor or subgrantee of a Department contractor or grantee, the report shall also be sent to the contractor or grantee.
- 2548.6 If the complainant disagrees with the Department's findings or proposed resolution, the complainant may appeal within fifteen (15) calendar days after receiving the Department's response. The appeal may be sent to the Office of Disability Rights, Attn: Director, 441 4th Street, NW, Suite 729N Washington, DC 20001. The Office on Disability Rights shall respond to the complainant within fifteen (15) calendar days after consultation with the complainant.
- 2548.7 No public or private entity that delivers shelter or supportive services covered by this Chapter shall retaliate against, coerce, intimidate, threaten, or interfere with any individual who files or makes a complaint, or requests a reasonable modification, or aids or encourages any other person to file or make a complaint or request a reasonable modification.

2549 ASSURANCE OF INDIVIDUAL'S RIGHTS

- 2549.1 The right of an individual to a prompt and equitable resolution of the complaint shall not be impaired by the individual's pursuit of other remedies. Use of this complaint procedure is not a prerequisite to the pursuit of other remedies.
- 2549.2 This procedure is established to protect the substantive rights of interested individuals, to meet appropriate due process standards, and to assure that the Department complies with Title II of the ADA.
- 2549.3 The ADA Coordinator shall maintain the files and records relating to complaints filed in accordance with this procedure for three (3) years.
- 2549.4 A complainant has the right to representation (at the cost of the complainant), at any stage, in the consideration of his/her complaint or reconsideration.

2550 FAIR HEARINGS

- 2550.1 A client receiving shelter or supportive housing services covered by this Chapter shall have the right to appeal through a fair hearing, any decision by the Department or a Provider to:
- (a) Deny eligibility for services to an applicant;
 - (b) Transfer the client to another Provider;
 - (c) Suspend the client from shelter or supportive housing;
 - (d) Suspend the provision of supportive services to the client for a period longer than ten (10) days but no longer than thirty (30) days; or
 - (e) Terminate services to the client.
- 2550.2 In addition to the bases for appeal in subsection 2550.1, a client may request a fair hearing to obtain any legally available and practicable remedy for any alleged violation of:
- (a) Any applicable Provider standards listed in sections 2515 through 2519 (D.C. Official Code § 4-754.21 through § 4-754.25); or
 - (b) The client rights listed in sections 2512 and 2513 and D.C. Official Code § 4-754.11 or § 4-754.12.
- 2550.3 A client shall request a fair hearing, orally or in writing, within ninety (90) days of receiving written notice of the adverse action.

- 2550.4 The Mayor shall treat a fair hearing request made by a client representative in the same manner as it would be treated if it were made directly by the client; provided, that the Mayor subsequently receives written documentation authorizing the client representative to act on behalf of the client in accordance with the requirements of section 1005 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-210.05).
- 2550.5 A request for a fair hearing shall be made to the Office of Administrative Hearings, or to the client's Provider, the Department, or the Mayor. If the request is made orally, the individual receiving the request shall promptly acknowledge the request, reduce it to writing, and file the request for a fair hearing with the Office of Administrative Hearings.
- 2550.6 Any client who requests a fair hearing within fifteen (15) days of receipt of written notice of a suspension or termination of shelter or supportive housing shall continue to receive shelter or supportive housing pending a final decision from the fair hearing proceedings. This right to continuation of shelter or supportive housing pending appeal shall not apply in the case of a transfer pursuant to section 2521 or an emergency action pursuant to section 2524.
- 2550.7 If a client requests a fair hearing in accordance with subsection 2550.6 but leaves the program as evidenced by unexplained absences from the program for more than 30 minutes after lights out in low barrier shelter or 48 hours in temporary shelter and supportive housing, or by informing the Provider that they are residing elsewhere, the Provider shall be allowed to give the client's bed or unit to another client. If the client leaves any property at the facility, the program shall be able to remove the property from the bed or unit, and store the property in accordance with section 2520.
- 2550.8 If, following a client's successful appeal, the original placement has no available unit or bed, the client shall receive the first available opening at the original placement. Until such time as a placement in the original program becomes available, the managing agency, whether the Department or its designee, shall give the client the highest priority for and offer to the client the most similar opening available in the Continuum of Care.
- 2551 ADMINISTRATIVE REVIEW PURPOSE AND APPLICABILITY**
- 2551.1 The purpose of an administrative review is to determine, in a timely manner, whether the service Provider's or agency's position is legally valid and, if possible, to achieve an informal resolution of the appeal.
- 2551.2 An administrative review shall be granted to any client or client representative who wishes to appeal a decision or action subject to review under subsection 2550.1 or subsection 2550.2 and who requests a fair hearing, orally or in writing, within

ninety (90) days of receiving written notice of the adverse action or within ninety (90) days of an alleged violation.

2552 ADMINISTRATIVE REVIEW PROCEDURES

- 2552.1 Upon receipt of a fair hearing request, the Department shall offer the client or client representative an opportunity for an administrative review by the Department of the decision, action, or inaction that is the subject of the fair hearing request.
- 2552.2 A client may have a representative to assist him or her at the administrative review. The representative may be either an attorney or layperson. The representative shall not be a Department employee.
- 2552.3 The client or client representative shall have the right to review the Provider's or Department's records regarding the client, or the records of other related service Providers regarding the client, prior to the administrative review and throughout the fair hearing process.
- 2552.4 The client or client representative shall have the right to submit issues and comments in writing to the Department, prior to or at the time of the administrative review.
- 2552.5 At the administrative review, the client, or client representative, and the Provider or agency's representative may provide oral or written evidence and may bring witnesses to provide oral or written evidence to support their position.
- 2552.6 The administrative review officer may request that additional information or documentation be submitted after the administrative review, if such information or documentation is necessary to the administrative review decision.
- 2552.7 The client, Provider, or agency shall have the right to a continuance of the administrative review for good cause shown.
- 2552.8 If a client or client representative does not obtain a continuance prior to the scheduled administrative review and misses the review, it is within the administrative review officer's discretion to reschedule the review if good cause is provided after the fact.
- 2552.9 If a client or client representative has not requested that the administrative review be rescheduled for good cause, however, and the client fails to appear at the scheduled administrative review, the review shall not be held. The client's failure to appear shall not affect his or her right to the fair hearing he or she has previously requested.
- 2552.10 If the Provider or the Department has not obtained a continuance of the administrative review based on good cause, the Provider or the Department fails to

appear at the scheduled administrative review, and the client appears, the administrative review officer shall proceed as scheduled.

2552.11 If an administrative review is conducted, the administrative review shall be completed before the Office of Administrative Hearings commences a fair hearing.

2552.12 The administrative review shall be completed and a decision shall be rendered within fifteen (15) days of receipt of a request for a fair hearing by the Department's Administrative Review Office, unless a continuance is granted. If a continuance has been entered, the administrative review decision shall be rendered no later than five (5) days from the date of the rescheduled review.

2552.13 At any time, a client or client representative may resolve with the Provider or the Department the matter that is the subject of the request for a fair hearing. If the matter is resolved after the administrative review has been convened, the client or client representative shall submit written notice to the administrative review officer of the resolution.

2552.14 If the client is satisfied with the administrative review decision, the client's request for a fair hearing shall be considered formally withdrawn upon submission by the client or the client representative of a signed statement to the Office of Administrative Hearings confirming such withdrawal.

2553 ADMINISTRATIVE REVIEW NOTICE REQUIREMENTS

2553.1 Upon receipt of a request for a fair hearing, the Department's Administrative Review Office shall schedule an administrative review. As soon as possible after receipt of the request for a fair hearing, the Department shall mail and, if possible, transmit by facsimile, a notice of the administrative review to the client, the client representative, if there is one, the Provider, and the Department's representative if there is a Department action at issue.

2553.2 The notice shall contain the following information:

- (a) The date, time, and place of the review;
- (b) The purpose of the review;
- (c) That the client has the right to have an attorney or lay representative present at the administrative review;
- (d) That the client or client representative has the right to submit issues and comments in writing to the Department, prior to or at the time of the administrative review;

- (e) That the client or client representative has the right to review the Provider's or Department's records regarding the client, or the records of other related service Providers regarding the client at any time during the administrative review process;
- (f) That the review will not be held unless the client appears and that the client's failure to appear will not affect the client's right to the fair hearing previously requested;
- (g) That if an administrative review is conducted, the administrative review will be completed and a decision issued in writing within fifteen (15) days of the receipt by the Department's Administrative Review Office of the request for a fair hearing, unless good cause is shown;
- (h) That if the client is not satisfied with the result of the administrative review, the fair hearing previously requested will be held; and
- (i) That if the client is satisfied with the result of the administrative review, the client's request for a fair hearing shall be considered formally withdrawn upon the submission of a signed statement by the client or client representative to the Office of Administrative Hearings confirming such withdrawal.

2554 ADMINISTRATIVE REVIEW OFFICER

2554.1 Each administrative review shall be conducted by an administrative review officer who shall be an employee of the Department but shall not be the person, or a subordinate of the person, who made or approved any decision or action under review.

2554.2 The responsibilities of the administrative review officer shall include, but shall not be limited to the following:

- (a) Review the oral and documentary evidence submitted prior to or at the time of the administrative review in order to assess the factual and legal issues that are presented;
- (b) Ascertain the legal validity of the action or decision that is the subject of the fair hearing request and, if possible, achieve an informal resolution of the appeal;
- (c) Issue a written decision within fifteen (15) days of the receipt by the Department's Administrative Review Office of a request for a fair hearing, unless a continuance is granted for good cause, in which case the written decision shall be issued within five (5) days of the rescheduled review. Such decision shall include a clear and detailed description of:

- (1) The action or decision by the Provider or the Department that is being appealed;
 - (2) The factual basis supporting the administrative review decision;
 - (3) The actions proposed by the administrative review officers that are intended to resolve the matter being appealed;
 - (4) A reference to the statute, regulation, Program Rule, or policy pursuant to which the administrative review decision is made; and
 - (5) A statement that if the client is not satisfied with the administrative review decision, a fair hearing shall be held.
- (d) Mail and, if possible, send by facsimile a copy of the administrative review decision to the client, the client representative, the Provider, the Administrator of the Family Services Administration, and the Department's designee, if any.
- (e) Mail and send by facsimile to the Office of Administrative Hearings a notice indicating when the administrative review was held and whether the administrative review officer upheld or denied the Provider or Department decision, action, or inaction at issue.
- (f) If a matter has been resolved before a decision has been served on the parties, send a copy of the notice of settlement by mail and, if possible, by facsimile to the client, the client representative, the Provider, the Administrator of the Family Services Administration, the Department's designee, if any, and the Office of Administrative Hearings. The administrative review officer shall send this notice as soon as practicable, but no later than fifteen (15) days from the receipt by the Department's Administrative Review Office of a request for a fair hearing, or no later than five (5) days following a rescheduled administrative review.
- (g) Prepare and file any status reports required by the Office of Administrative Hearings.
- (h) Review any request for a continuance of the scheduled administrative review. If good cause is shown, issue a written notice of the new date and time of the rescheduled review to the client or client representative, the Provider, and the Department, if applicable, prior to the commencement of the continuance.

The Department shall maintain a record for each administrative review offered or held. Each administrative review record shall include:

- (a) Documentation of the request for a fair hearing;
- (b) Documentation of the notice of the administrative review;
- (c) Evidence considered at the administrative review, if held;
- (d) All status reports issued to the Office of Administrative Hearings; and
- (e) All administrative review decisions issued.

2556-2598 RESERVED

2599 DEFINITIONS

For the purposes of this Chapter, the following terms shall have the meanings ascribed:

Act – the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq*).

Adult –any individual who:

- (a) Has reached the age of majority under District law as defined in D.C. Official Code § 46-101; or
- (b) Qualifies as an emancipated minor under District law.

Americans with Disabilities Act or ADA – means the act which prohibits discrimination based on disability in the provision of services offered by a public entity, 42 U.S.C. §§ 12131 – 12134, and the US Attorney General’s implementing regulation, 28 C.F.R. Part 35.

Apartment style – a housing unit with:

- (a) Separate cooking facilities and other basic necessities to enable families to prepare and consume meals;
- (b) Separate bathroom facilities for the use of the family; and
- (c) Separate sleeping quarters for adults and minor children in accordance with the occupancy standards of Title 14 of the District of Columbia Municipal Regulations (Housing).

Appropriate permanent housing – permanent housing that does not jeopardize the health, safety, or welfare of its occupants, meets the District's building code requirements, and is affordable for

the client.

Appropriately trained and qualified – having received specialized training designed to teach the skills necessary to successfully perform one's job and to work compassionately with individuals and families who are homeless or at imminent risk of becoming homeless.

Basic necessities – a dinette set, refrigerator, stove, exhaust fan or window, storage cabinets, cookware, flatware, and tableware.

Child and Family Services' Service Agreement - means the casework document developed between the caseworker for the D.C. Child and Family Services Agency and the family that outlines the tasks necessary to achieve case goals and outcomes.

Client – an individual or family seeking, receiving, or eligible for services from a program within the Continuum of Care offered by the District of Columbia under the Act or by a Provider receiving funding for the program from either the District of Columbia or the federal government, if such funds are administered, whether by grant, contract, or other means, by the Department of Human Services or its designee.

Client Advocate - means a qualified professional, employed or contracted by or on behalf of the District of Columbia to provide case management and coordination services for families, who is independent of all direct service Providers, and who remains with the family through the duration of services within the Continuum of Care.

Continuum of Care – a comprehensive system of services for individuals and families who are homeless or at imminent risk of becoming homeless that is designed to serve clients based on their individual level of need. The Continuum of Care may include crisis intervention, outreach and assessment services, shelter, transitional housing, permanent supportive housing, and supportive services.

Crisis intervention – assistance to prevent individuals and families from becoming homeless, which may include, but need not be limited to, cash assistance for security deposits, rent or mortgage payments, utility assistance, credit counseling, mediation with landlords, and supportive services.

Culturally competent – the ability of a Provider to deliver or ensure access to services in a manner that effectively responds to the languages, values, and practices present in the various cultures of its clients so the Provider can respond to the individual needs of each client.

Department – the Department of Human Services.

District – the District of Columbia government, its agents, or its designees.

Drug – a controlled substance as defined in D.C. Official Code § 48-901.02(4) or 21 U.S.C. § 801 *et seq.*

Family – either of the following:

- (a) A group of individuals with at least one minor or dependent child, regardless of blood relationship, age, or marriage, whose history and statements reasonably tend to demonstrate that they intend to remain together as a family unit:
 - (1) For purposes of this section, “dependent child” shall mean a minor or adult child if such person has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration that substantially impedes his or her ability to live independently.
- (b) A pregnant woman in her third trimester.
- (c) Minor children of the applicant adult are presumed to be part of the family unit, regardless of previous living arrangements, as long as they presently intend to join and remain together as a family unit.
- (d) The partner or significant other of the applicant adult that otherwise meets the definition of family set forth in subparagraph (a) or (b) is presumed to be part of the family unit, regardless of previous living arrangements, as long as they presently intend to join and remain together as a family unit.

Good cause – includes illness, an accident, a childcare problem, severe weather conditions, another emergency, or a client’s desire to obtain a representative for the administrative review, or other similar circumstances.

Group home – a housing unit with:

- (a) Sleeping quarters that may be shared;
- (b) Shared cooking and bathroom facilities; and
- (c) Other basic necessities to enable individuals or families to prepare and consume meals.

Homeless – either of the following:

- (a) Lacking a fixed, regular residence that provides safe housing, and lacking the financial means to acquire such a residence immediately; or
- (b) Having a primary nighttime residence that is:
 - (1) A supervised publicly or privately operated shelter or transitional housing facility designed to provide temporary living accommodations; or
 - (2) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Homeless Management Information System—means the District of Columbia’s Homeless Management Information System (HMIS) established pursuant to the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11383) and as required by the United States Department of Housing and Urban Development.

Housing First – a program that provides clients with immediate access to independent permanent housing and supportive services without prerequisites for sobriety or participation in psychiatric treatment. Clients in Housing First programs may choose the frequency and type of supportive services they receive and refusal of services will have no consequence for their access to housing or on continuation of their housing and supportive services.

HUD Fair Market Rent – means the rent that would be required to be paid in the particular housing market area in order to obtain privately owned, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities, as set forth in 24 CFR § 5.100.

Hyperthermia shelter – a public or private building that the District makes available, for the purpose of providing shelter to individuals or families who are homeless and cannot access other shelter, whenever the actual or forecasted temperature or heat index rises above ninety-five (95) degrees Fahrenheit. The term “hyperthermia shelter” does not include overnight shelter.

Hypothermia shelter – a public or private building that the District makes available, for the purpose of providing shelter to individuals or families who are homeless and cannot access other shelter, whenever the actual or forecasted temperature, including the wind chill factor, falls below thirty-two (32) degrees Fahrenheit.

Individual with a disability – a person with a physical or mental impairment that substantially limits the major life activities of the person.

Imminent risk of becoming homeless – the likelihood that an individual's or family's circumstances will cause the individual or family to become homeless in the absence of prompt government intervention.

Imminent threat to the health or safety – means an act or credible threat of violence on the grounds of a shelter or supportive housing facility. An imminent threat shall include (1) releasing confidential information regarding the location of a domestic violence shelter in such a manner as to endanger the residents, and (2) having a designated status as a predatory offender.

Interagency Council on Homelessness— the Interagency Council on Homelessness established pursuant to D.C. Official Code § 4-752.01.

Local Rent Supplement Program (LRSP) – means a locally funded housing assistance program operated by the District of Columbia Housing Authority (DCHA) established under Title II of the Fiscal Year 2007 Budget Support Emergency Act of 2006, effective August 8, 2006 (D.C. Act A16-0476; 53 DCR 7068), which is the D.C. Housing Authority Rent Supplement Act of 2006, as amended or as provided in subsequent appropriation authority.

Low barrier shelter – an overnight housing accommodation for individuals, who are homeless, provided directly by, or through contract with or grant from, the District, for the purpose of providing shelter to individuals without imposition of identification, time limits, or other program requirements.

Office – the Office of Shelter Monitoring established pursuant to D.C. Official Code § 4-754.51.

Permanent supportive housing – supportive housing for an unrestricted period of time for individuals and families who were once homeless and continue to be at imminent risk of becoming homeless, including persons with disabilities as defined in 24 C.F.R. § 582.5, for whom self-sufficient living may be unlikely and whose care can be supported through public funds.

Program Rules – the set of Provider rules, client rights, and complaint and appeal procedures that have been proposed by a particular Provider and approved by the Mayor, for the purpose of governing the behavior and treatment of clients.

Provider – an individual or entity within the Continuum of Care that operates a program covered by the Act.

Resident of the District – an individual or family who is living in the District voluntarily and not for a temporary purpose and who has no intention of presently moving from the District. The term "resident of the District" shall be interpreted and applied in accordance with D.C. Official Code § 4-205.03.

Safe housing – housing that does not jeopardize the health, safety, or welfare of its occupants and that permits access to electricity, heat, and running water for the benefit of occupants.

Sanction – an adverse action taken by a Provider affecting the delivery of services to a client, and may include loss of privileges or denial, reduction, delay, transfer for inappropriate or punitive reasons, suspension, or termination of services.

Service Plan – a written plan collaboratively developed and agreed upon by both the Provider and the client, consisting of time-specific goals and objectives designed to promote self-sufficiency and attainment of permanent housing and based on the client's individually assessed needs, desires, strengths, resources, and limitations.

Severe weather conditions – the outdoor conditions whenever the actual or forecasted temperature, including the wind chill factor or heat index, falls below 32 degrees Fahrenheit or rises above 95 degrees Fahrenheit.

Severe weather shelter – a hyperthermia shelter or hypothermia shelter.

Shelter – severe weather shelter, low barrier shelter and temporary shelter.

Supportive housing – transitional housing and permanent supportive housing.

Supportive services – services addressing employment, physical health, mental health, alcohol and other substance abuse recovery, child care, transportation, case management, and other health and social service needs which, if unmet, may be barriers to obtaining or maintaining permanent housing.

Temporary shelter – means each of the following:

- (a) A housing accommodation for individuals who are homeless that is open either twenty-four (24) hours or at least twelve (12) hours each day, other than a severe weather shelter or a low barrier shelter, provided directly by, or through contract with or grant from the District, for the purpose of providing shelter and supportive services; or
- (b) A twenty-four (24) hour apartment style housing accommodation for individuals or families who are homeless, other than a severe weather shelter, provided directly by, or through contract with or grant from, the District, for the purpose of providing shelter and supportive services.

Transitional housing – a twenty-four (24) hour housing accommodation provided directly by, or through contract with or grant from, the District, for individuals and families who:

- (a) Are homeless;
- (b) Require a structured program of supportive services for up to two (2) years or as long as necessary in order to prepare for self-sufficient living in permanent housing; and
- (c) Consent to a Service Plan developed collaboratively with the Provider.

Weapon – any pistol or other firearm (or imitation thereof), or other dangerous or deadly weapon, including a sawed-off shot gun, shot gun, machine gun, rifle, dirk, bowie knife, butcher knife, switch blade knife, razor, black jack, billy club or metallic or other false knuckles, as referenced in D.C. Official Code §22-4502, and any air gun, air rifle, canon, torpedo, bean shooter, sling, projectile, dart, BB gun, spring gun, blow gun, other dangerous missile or explosive, or other dangerous weapon or ammunition of any character, as referenced in Chapter 23 of Title 24 of the District of Columbia Municipal Regulations.

All persons who desire to comment on these proposed rules should submit their comments in writing to Clarence H. Carter, Director, Department of Human Services, 64 New York Avenue, N.E., Washington, D.C. 20002, **Attn:** Mr. Fred Swan, Administrator, Family Services Administration. All comments must be received by the Department of Human Services not later than forty-five (45) days after publication of this notice in the *D.C. Register*. Copies of these rules and related information may be obtained by writing to the above address, or by calling the Department of Human Services at (202) 671-4200.